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AFGHANISTAN

GENDER ASSESSMENT

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Afghanistan Rule of Law Stabilization Program-
Formal Component
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1. INTRODUCTION

USAID's Afghanistan Rule of Law Stabilization Program- Formal Component (RLS-Formal¹) supports two pillars of the U.S. Government rule of law (ROL) strategy for Afghanistan: pillar 1, improve the justice sector and reduce corruption; and, pillar 4, build leadership in the justice sector and civil society. The Program focuses on improving the justice sector by developing the capacity of the judiciary and the law schools. RLS-Formal also aims to build leadership in the justice sector and civil society by raising public awareness of the formal justice system and encouraging Afghan citizens to resolve their disputes.

This gender assessment analyzes the enabling and disabling factors to women's participation in Afghanistan's justice sector as judges, court administrators, law and *Shari'a* professors, law and *Shari'a* students, and members of the public; evaluates the assistance provided to address these issues to date by the Program; and makes recommendations for future initiatives.

It is critical to note that a lack of cooperation from one of RLS-Formal's primary counterparts, the Supreme Court (SC), prevented RLS-Formal from performing as comprehensive an analysis of women's participation in the judicial sector of Afghanistan as was hoped and anticipated. Despite repeated requests to the Director General of the Judiciary, Dr. Abdul Malik Kamawi, the SC did not allow the project to communicate with, or obtain information from, the Afghan females judges or court administrators. This has seriously impacted the value of this assessment. Consequently, RLS-Formal was forced to rely on public information and previous surveys and interviews conducted by its staff, which resulted in a gender analysis and assessment that is less than comprehensive and is severely compromised in its scope and quality. Therefore, as is practicable and feasible, it is strongly recommended that USAID intervene to encourage cooperation from the Court in order allow access for further supplemental research which will result in a more meaningful assessment to better inform future program activities.

1.1 CONTEXT

Afghanistan's constitution guarantees equality between women and men,² however, discrimination continues to be codified in existing laws, such as Article 249 of the Civil Code which sets different ages for girls and boys with respect to period of parental care. Those rights that do exist are unevenly applied due to discriminatory cultural traditions, pervasive

¹ USAID awarded Contract DFD-I-00-04-00173-00, task order number nine for the USAID/Afghanistan Rule of Law Stabilization Program – Formal Component (“the Program” or “RLS-Formal”), effective May 19, 2010 through May 18, 2011 (the “base year”). On May 18, 2011, USAID exercised the one-year option period extending the Program until May 18, 2012 (the “option year”), through task order modification number five. On February 5, 2012, USAID provided the Program with a 56-day no-cost extension of the option year from May 19, 2012 until July 15, 2012, through task order modification number eleven. In July, RLS-Formal transitioned from a 56-day no-cost extension of its original contract to a 90-day Letter Contract No. AID-306-C-12-00014. The contract began on July 16 through October 13, 2012, and USAID modified the contract in October 2012 to extend RLS-Formal through January 12, 2014.

² Article 22 of Constitution states “Any kind of discrimination between and privilege among the citizens of Afghanistan is prohibited. The citizens of Afghanistan have equal rights and duties before the law.”

corruption, and the low capacity of many in the justice sector. Training is still not provided to judges on the contents of the Afghan Law on the Elimination of Violence Against Women, which was adopted in 2009. Women's rights to property and inheritance are not upheld, and forced marriages are widely reported.³ Women also face difficulties reporting crimes and the burden of responsibility for ensuring witnesses attend court proceedings.

Women remain drastically underrepresented in Afghanistan's justice sector as judges, court administrators, law students, and professors. Currently, women comprise only 9 percent of judges nationally, with only 1.4 percent of those judges outside of Kabul, 7.7 percent of court administrators, 7.1 percent of law and *Shari'a* professors, and 18.8 percent of law and *Shari'a* students.

Female members of the public face starkly disproportionate barriers to access to justice. For instance, women face cultural restrictions on movement, experience-based fear and distrust of the system, as well as shame and gender inequality within the community. Women's lack of control over their income means they are at a stark disadvantage to men when it comes to paying the expenses related bringing a case to court.

The Courts

The Supreme Court is the highest court and composed of nine justices, including the Chief Justice. The group makes up a governing body referred to as the Supreme High Council. There are four *dewans*, or divisions, within the Supreme Court – civil, criminal, commercial, and public rights. All seats on the Supreme Court are held by men. Initially, one seat was allocated for a woman; however, it has been cited that opposition from conservative blocs prevented such an appointment.⁴

Each of the 34 provinces of Afghanistan houses a Provincial Court of Appeals – the second highest court in Afghanistan. In addition to the four divisions of the Supreme Court, the Appeals Courts include public security and juvenile *dewans*.

Additionally, Urban Primary Courts exist in provincial capitals, with a subsystem of primary courts in many of the districts. Each Primary Court should contain three judges, although many do not. The Primary Court is the court of first instance for citizens wishing to bring a case to trial, and includes Divisions for general criminal, civil, public rights, public security, and traffic cases.

In addition, there are special tribunals, including Family Courts in Kabul, Herat, Balkh, Kunduz, and Nangarhar, and the Counter-Narcotics Court in Kabul. In total, there are 551 formal courts actively operating throughout Afghanistan.

³Amnesty International. *The State of the World's Human Rights: Annual Report 2012*.
<http://www.amnesty.org/en/region/afghanistan/report-2012>. Accessed September 20, 2012.

⁴Pradhan, Rima Das and Pauline Tweedie. *Legal Empowerment and Access of Women to Justice*. USAID, March 2008.

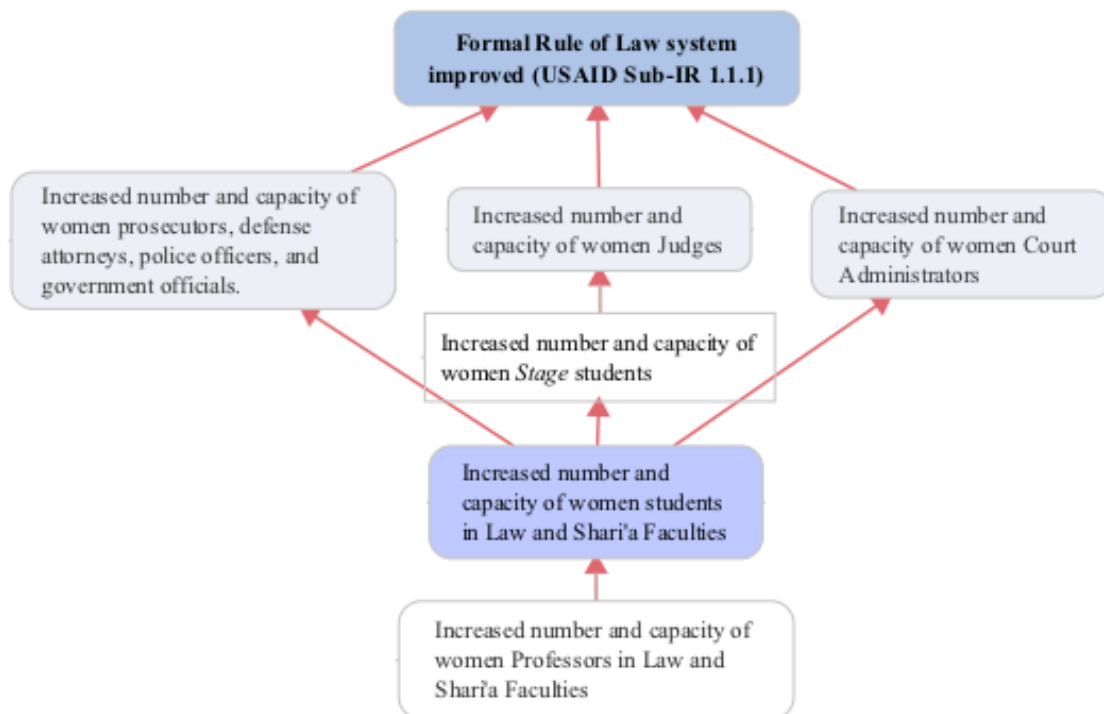
Legal Education

The Ministry of Higher Education has authority over legal education at public universities in Afghanistan. It develops and certifies the legal education curriculum, grants degrees, and hires and trains professors.

Legal education at Afghan universities includes the faculties of Law and *Shari'a*, which is subdivided into the Departments of Islamic Education, Islamic Jurisprudence (*Fiqh*), and *Shari'a* Law (*Qanoon*).

There are 11 public universities with a program in law or *Shari'a*: Kabul University, Kandahar University, Herat University, Balkh University, Kunduz University, Takhar University, Kunar University, Khost University, Paktia University, Nangarhar University, and Al-Bironi University in Kapisa.

Figure 1: Theory of Change



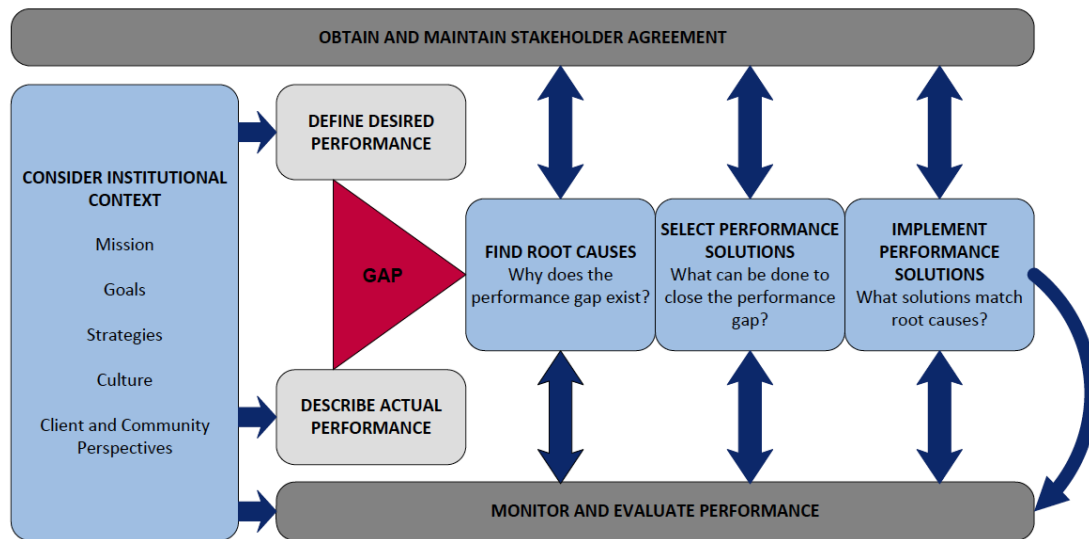
1.2 METHODOLOGY

In September and October 2012, RLS-Formal conducted an analysis of women's participation in Afghanistan's justice sector as judges, court administrators, students in the faculties of law and *Shari'a*, and members of the public. The review, based on USAID's Human and Institutional Capacity Development (HICD) framework, identifies the gap ("performance gap") between the current level of women's participation, and the desired level of women's participation as defined by the Afghan National Development Strategy

(ANDS) and the Afghan National Justice Sector Strategy (NJJS).

Within each of the sectors covered in this report, RLS-Formal analyzes the root causes of women’s performance gap according to the American Society for Training and Development’s (ASTD) six key factors for good performance (“performance factors”): **Physical Resources, Structure / Process, Information, Knowledge, Motives, and Wellness** to identify enabling and disabling factors for women’s participation.

Figure 2: HICD Performance Improvement Model



Over a four-week period, RLS-Formal conducted a series of focus groups with women judges, court administrators, law and *Shari’a* students, and *Stage* students; an exit survey of women at courthouses in Balkh, Herat, Jalalabad, and Kandahar; and interviews with members of the Supreme Court, the Director of the Judicial *Stage* and female professors at faculties of law and *Shari’a*. Though severely restricted in gaining meaningful access to justice sector personnel by the Supreme Court, a review of the effectiveness of RLS-Formal’s programming was conducted and recommendations for future USAID and RLS-Formal performance solutions were made accordingly.

Figure 3: ASTD Performance Intervention Map

	Physical Resources <i>Examples:</i> Tools, materials, technology, equipment, improved lighting, adequate project budgets, supplies, etc.	Structure / Process <i>Examples:</i> Logical reporting relationships, management support, quality inputs, logical steps to follow, realistic policies, a meaningful mission statement, etc.	Information <i>Examples:</i> Feedback on your performance, clear standards, customer feedback, reliable data, reference material, etc.
Environmental			

Individual	Capacity	Motives	Wellness
	<i>Examples:</i> Training, job aids, coaching, mentoring, on-the-job training, continuing education	<i>Examples:</i> Profit sharing, recognition, performance-based pay, bonuses, benefits, job security, prestige of position, opportunities for advancement, etc.	<i>Examples:</i> Better health care system, marriage counseling, more physical exercise, more relaxation time, stress management, better dietary habits, etc.

1.3 PROGRAM HIGHLIGHTS

RLS-Formal implemented several program components specifically focused on increasing the number and capacity of women to participate in Afghanistan's justice sector. While women and issues of importance to women were included across the program, RLS-Formal achieved the greatest success in supporting women in *Stage* and women law and *Shari'a* students, and facilitating the inclusion of issues of importance to women in the university curriculum.

Targeting women for awareness-raising for the *Stage* program was both successful and appropriate and the establishment of the Afghanistan Women Judges Assembly (AWJA) is expected to give women judges a forum for capacity building and networking.

Additionally, RLS-Formal oversaw the publication and distribution of 4,000 copies of an *Inheritance Law* textbook to 17 law and *Shari'a* faculties which is expected to impact the ability of justices to uphold women's rights under this law.

Further, the establishment of a separate, culturally appropriate computer lab at Kabul and anticipated provisions for all-female computer labs at Takhar and Nangarhar Universities will increase women's access to information and resources necessary for their academic success.

Highlight 1: Awareness-Raising For the Judicial *Stage* Program

In 2011, RLS-Formal held a series of forums for women law and *Shari'a* students to increase their awareness of the purpose and requirements of the judicial *Stage* program. Six forums were held for 366 women law and *Shari'a* students and judges –covering approximately 20 percent of female law and *Shari'a* students nationally - in Kabul, Herat, Balkh, Kapisa, Nangarhar, and Takhar. Pre and post surveys at the Balkh and Herat forums showed a 97.2 percent and 45 percent increase in participant awareness of the *Stage* application process, respectively. The findings of this gender assessment indicate that RLS-Formal's awareness raising activities coincided with an increase in women's participation in the *Stage*. Most notably, from 2008 to 2012, the percentage of women in the *Stage* increased from 8 percent to nearly 25 percent, exceeding the goal set by the Afghanistan National Development Strategy (ANDS).

Highlight 2: Separate Computer Labs for Female Students Established at Universities

The Program built and equipped a separate, culturally appropriate computer lab at Kabul

university for female students, who were not comfortable using a co-ed computer lab. RLS-Formal provides computer skills training and material support at this lab in order to enhance the resources available for students to hone their legal research and advocacy skills. Similar gender-focused initiatives are underway at Takhar and Nangarhar Universities. These practical resources aim to build student knowledge, balancing the more academic focus of legal training in Afghanistan, and will result in a cadre of well-trained and motivated legal professionals who can offer meaningful access to justice to more citizens.

Highlight 3: Inheritance Law Textbook Written and Distributed

RLS-Formal oversaw the publication and distribution of 4,000 copies of an *Inheritance Law* textbook to 17 law and *Shari's* faculties. Inheritance law is a key issue for women in Afghanistan. The printing of these texts by the RLS-Formal program is crucial as inheritance constitutes the highest value financial transaction in which most families engage, and women's access to the inheritance of property and other wealth enables their empowerment.

Highlight 4: Afghan Women's Judges Association Established

In 2012, RLS-Formal provided support to the SC to establish the Afghan Women's Judges Association (AWJA), including development of a mission statement and organizational structure, and sponsorship and facilitation for the organization's inaugural conference. AWJA is unique in Afghanistan as a prominent group of experienced women judges, and the legal professional association has the potential to provide authority and leadership in the process of integrating gender in the judiciary. RLS-Formal anticipates continuing to support the AWJA, facilitating the work of its committees and supporting it to organize activities for its members.

Highlight 5: Public Outreach

RLS-Formal has assisted with the design, production and distribution of over 4 million public legal awareness materials in the form of pamphlets, posters, comic books, and other print materials, as well as over 14,000 minutes of television and radio legal awareness programs broadcast during prime time viewing and listening hours. RLS-Formal also assists its counterparts with producing radio and television programs to educate and inform the public about their basic legal rights as citizens, placing specific emphasis on leveraging the power of mass media to disseminate messages related to women's rights, human rights, and anti-corruption.

1.3 ANALYSIS

Progress towards ANDS and NJJS goals for women's participation in the legal sector - as judges, students, professors, court administrators, and members of the public - has been uneven from institution to institution and from province to province, but overall has moved in a positive direction. Responses designed to increase women's participation will require greater nuance to address the different stages of development in each institution and location. In those cases where annual targets are being met, the focus for support can turn towards more qualitative goals such as female students' access to opportunities for practical experience. Where women's participation has shown marginal or no increase, as it has for women law professors at all universities, greater attention should be placed on interventions

that address the root barriers to women's participation and basic recruitment programs for women.

Women as Judges

The percentage of women judges in Afghanistan has increased from 4.7 percent in 2006 to 9 percent in 2012. While this is a notable achievement, the number of women judges falls short of the 2012 target of 12.7 percent women. Of greater concern, female judges are heavily concentrated in Kabul, comprising a total of only 1.4 percent of those judges outside the capital, and being present in only four provinces— Baghlan, Balkh, Herat, and Takhar – all in the North and West of the country.

Women's enrollment in the *Stage* program has exceeded annual ANDS targets for the past three years, achieving a peak of 25 percent in 2012. However, as the only *Stage* is in Kabul, and Afghan women face strict cultural barriers against living away from their families, only women from the immediate area around the capital have been successfully recruited into the program. This condition will likely mean that the disproportionate level of access to female judges will persist for the vast majority of women in Afghanistan, despite the consistent rise in female enrollment.

Women's expressed unwillingness to move from distant provinces – even more liberal provinces, such as Herat - to Kabul, indicates that increasing women's access to female judges outside of Kabul will eventually require regional *Stage* programs to be established. However, at the present time the capacity of the existing *Stage* program is not well-developed, and it is unlikely that the SC will be capable of replicating the program at even its current operational level for another three to five years.

Court Administrators

Administrators are the public's first point of contact with the courts, and the quality of their work is largely responsible for citizen's perceptions of the court's efficacy. The presence of female court administrators can serve to create a more welcoming environment for women members of the public and contribute to more equitable treatment for cases brought by or involving women. Yet, of the three areas of women's institutional participation examined in this report, women's participation as court administrators is the lowest.

There are presently 129 women working as court administrators in Afghanistan – 42 less than the total number of women judges. Of the eight provinces – Badakshan, Balkh, Herat, Jawzjan, Kabul, Logar, Paktika, and Takhar - where women administrators are working in the courts, none meet the 30 percent threshold.

The SC proved uncooperative in allowing access to RLS-Formal to speak with women employed as court administrators and has been equally uncooperative in discussing future assistance to increase women's participation in the justice sector, as a whole. Increasing the number of women court administrators has the potential to improve management of cases brought to the courts by women. However, a great deal of work will first be required on the

part of USAID and RLS-Formal to improve the institutional culture on gender equality at the SC and encouragement of high-ranking officials to consider greater support for women.

Women in the Law and *Shari'a* Faculties

Women's participation as Law and *Shari'a* students is roughly on par with projected nationwide goals. While there were significantly lower numbers of women enrolled in Universities in the South and East, the presence of any women enrolled at the Universities of Kandahar, Kunar, Jalalabad, and Paktia should be considered a major achievement.

With women's enrollment numbers on the rise, the most typical criticism of women entering the justice sector is that they display lower levels of practical experience than their male peers—largely a result of women's limited mobility. To date, RLS-Formal has facilitated moot court competitions and legal clinics for male and female students. While women have comprised 49 percent of legal clinic participants, no women participated in the 2012 moot court competition in Kabul.

While programs focused on recruiting women into the Law and *Shari'a* faculties will need to continue if women's enrolment is to continue to climb, additional focus will need to be placed on women's exposure to practical legal opportunities to ensure they are better prepared to succeed in the field after graduation. This will require additional efforts to encourage faculty to more readily accept and encourage women's participation in these types of activities.

In contrast to the rise in the number of female students, little traction has been made in Afghanistan towards the NJJS goal of 30 percent women law professors, with only 19 employed nationwide—four at the University of Balkh, seven at the University of Kabul, one at the University of Al Biruni in Kapisa, and seven at the University of Herat. Women professors cited difficulty in earning advanced degrees in law as a major impediment to women entering this field, as studying at a foreign university is usually required.

The availability of women professors is an important enabling factor for women to study Law and *Shari'a*, and greater attention will need to be placed in this deficit if women's participation in the justice sector is to reach the 30 percent threshold. Assistance in this area will need to focus on basic recruitment efforts for the foreseeable future.

The legal education curriculum at Afghan Universities does not include significant information on women's rights. The *Stage* program, likewise, includes little guidance to future Judges on women's rights, in particular under the Inheritance Law or the Law on the Elimination of Violence Against Women. As such, legislative gains for gender equity have little chance of being upheld in Afghan courts.

Women's Access to Justice

The courts are still perceived by very few Afghans as a place where women can go to resolve

their problems.⁵ Women who participated in RLS-Formal's exit surveys sat courthouses in Kandahar, Herat, Balkh, and Jalalabad, cited extreme delays in having their cases addressed by the court, corruption, and unavailable information at the courts. However, identifying the extent of these issues or the impact of gender justice or anti-corruption trainings remains difficult. The SC does not yet comprehensively track cases, release judicial decisions, or typically allow court proceedings to be observed. This closed approach is a major impediment to all aspect of court reform in Afghanistan, not simply regarding issues of gender justice.

Outreach to women is likewise limited by women's restricted mobility and access to media. Television, internet, mobile phones, and, to a lesser degree, radio, are useful mediums to reach middle and upper class Afghan women in urban centers. Available avenues to reach the majority of women in Afghanistan who are poor, illiterate, and living in rural villages, tends to be predominantly to face-to-face community meetings or messages conveyed by via the radio or through local *mullahs*.

While RLS-Formal attempted a wide-reaching communications program targeting women in Afghanistan, media utilizing print publications, television, and radio, other non-traditional methods were under-utilized to assist in increasing women's legal awareness or provide information on how to use the formal justice sector to secure their rights. Further, no monitoring activities were undertaken to verify that the intended recipients actually received tangible benefits from the materials distributed. Future outreach efforts will need to be more nuanced in targeting select demographics of women – women leaders, rural women, female actors in the justice sector, NGO workers etc – using non-traditional mediums and should provide more practical information to women on how to access the Courts.

It is important to note, however, that the Program should also be mindful of over-educating women on their rights if the prominent justice actors (judges, clerks, and court administrators) are not ready to accept the responsibility of providing effective service and justice delivery. Doing so would indeed be counterproductive to the aims of the Program's overall strategy of building confidence and respect for the rule of law when the rule law will not and cannot be delivered effectively by its main actors.

1.4 PROGRAM RECOMMENDATIONS

The following key recommendations are designed to inform the work-plan for the RLS-Formal 15 month extension period. They are based on the findings in this report, the available time frame and funding, and the perceived interest of Afghan counterpart organizations.

- To increase the number of female applicants to the **Judicial Stage** program and eventually the number of women judges, RLS-Formal should continue **informational sessions for women Law and Shari'a students at the nine Universities with women students (Balkh, Al Biruni, Gardez, Herat, Jalalabad, Kabul, Kandahar, Kunar,**

⁵Tariq et al. *Afghanistan in 2011: A Survey of the Afghan People*. The Asia Foundation, 2011, p. 153.



and Takhar), on the *Stage* program and expand the forums to include assistance with the application process and the development and dissemination of study materials for the entrance exam. If the SC establishes the anticipated *Stage* for Court Administrators, a training program for court clerks and administrators, then RLS-Formal should consider holding informational sessions to encourage women to participate in that program as well.

- RLS-Formal should consider providing support to the SC to develop an **online application and registration process for the *Stage* program** via a link embedded in the official SC website to allow female and male students to more easily apply from Kabul and increase the number of female applicants outside Kabul and eventually the number of women judges in the provinces. This will depend on receiving the full support of the SC for the initiative, and USAID's direct involvement may be necessary to achieve this.
- RLS-Formal and USAID should continue to find a way to provide support to the SC for a **permanent and secure women-only** dormitory for the *Stage* program in Kabul, and any future regional locations. Secure and culturally appropriate housing is necessary for women from outside of Kabul to participate in *Stage*, given cultural taboos against women living away from their families.
- USAID should provide support to the SC to establish a pilot regional branch of the *Stage* program once the capacity of the existing *Stage* program is better developed, to enable women from outside of Kabul to participate in the program and eventually increase the number of women judges in the provinces. Under the present program, RLS-Formal may consider working with the SC to develop a **Strategic Development Plan and Capacity Development Plan for the *Stage* program** that includes a timeframe for introducing regional *Stage* centers.
- Depending on the SC cooperation, RLS-Formal should conduct an in-depth **review of the placement of women judges**, identifying possible methods for increasing the number of women outside of Kabul. USAID's direct assistance will likely be necessary to achieve this.
- RLS-Formal should consider establishing and expanding opportunities for female students to gain practical judicial experience through **internship programs, expanded legal clinics, and greater support for women's participation in moot court competitions** at select Faculties of Law and *Shari'a*. Such experience was identified as a particular weakness among women in the judicial *Stage*, and would better enable women judges to more effectively uphold women's rights in Afghanistan. The addition of such programs may also contribute to women's ability to serve as judges outside of Kabul through the increased interest of women students in the provinces and increased acceptance of women by the provincial courts.
- To better track the advances and declines in the Courts' responsiveness to women, RLS-Formal should encourage the institution to **incorporate gender tracking and reporting**

requirements into the new computerized Afghanistan Court Administration System (ACAS), once it is adopted. Information tracked should include, but not be limited to, the number and percentage of divorces granted to women, the conviction rates of domestic violence cases, and the number and percentage of inheritance claims brought by women, and the processing times for cases brought by women versus men.

- To expand networking opportunities for women judges and contingent upon SC approval, RLS-Formal should continue providing **support to build the capacity of the Afghan Women Judges Association (AWJA)**. Such support could include technical training, resources, and mentoring on organizational development, such as project management, accounting, and reporting.
- RLS-Formal should work towards including **at least 30 percent women in all future trainings** and activities where possible, to more equitably increase the capacity of women in the justice sector, if support from the Court can be received.
- RLS-Formal should develop a **training curriculum** on women's rights under Afghan law and should **mainstream gender justice** into existing trainings. Specific topics should include gender equity, the 2009 Afghan Law on the Elimination of Violence Against Women and the Inheritance Law.
- RLS-Formal should focus **outreach to women on practical aspects of using the courts**, such as producing "how-to" guidebooks or videos on filing a case, submitting information to the courts, or arranging for a witness to appear, to better inform women of how to defend their rights. Materials should be distributed to the Provincial Departments of Women's Affairs, the primary official source of information for women, in addition to the Courts, to better reach women. Outreach to women should focus on areas around those select Courts determined to be most capable of upholding women's legal rights and should include non-traditional mechanisms such as community meetings as well as outreach through local *mullahs*, as possible.
- To increase the efficacy of women working in the justice sector, the Program should look for opportunities to provide support by facilitating networking and knowledge exchange across provinces, including through the use of **innovative technologies**, such as a website and targeted email.
- RLS-Formal should consider providing legal rights awareness at high schools, possibly in coordination with existing civic education courses conducted through the legal clinic Street Law program. Events held could also include **Justice Sector Career Days** at girls' high schools with female law students, police, lawyers, and judges serving as guest speakers.
- In recognition of the varying levels of comprehension of and support for women's legal rights across Afghanistan, RLS-Formal should consider a **tailored approach** to programming in each province, with the focus of programming on those areas where individuals and institutions show the greatest opportunities for effective support. In

general it is recommended that gender justice support take a **depth over breadth approach** and only target those groups or provinces where assistance is most needed, will have the greatest impact, and will have the greatest catalytic effect on reform efforts.

The following is an illustrative chart of the varying levels of openings for gender justice programming in Afghan provinces, in descending order.

Category 1 Provinces

Category One Provinces are those provinces in Afghanistan whose populace, include justice sector actors, who are most supportive of women's legal rights. Typically, there are practicing women judges, female students who study Law and *Shari'a* when those Faculties are present, and women students from these provinces often apply for the judicial *Stage* program.

This category currently includes six (6) provinces: Baghlan, Balkh, Herat, Kabul, Kapisa, and Takhar

Category 2 Provinces

Category Two Provinces have typically made less advances in support of women's legal rights, but nevertheless many openings exist for gender justice work. The province may not have practicing women judges, however, male judges have proved open to working with women and upholding women's legal rights. If there is a University, there are women students in the Law or *Shari'a* Faculties, and women students from these provinces have may applied for the Judicial *Stage* program.

This category currently includes 14 provinces: Badakshan, Bamyān, Daikundi, Farah, Faryab, Ghor, Jowzjan, Kunduz, Laghman, Nangarhar, Panjshir, Parwan, Sar-i-pul, and Samangan

Category 3 Provinces

Category Three Provinces are more conservative than Category Two Provinces. Some openings for women's rights exist, but they are minimal, and insecurity is frequently a barrier. No women judges work in these areas, and male judges have proved unknowledgeable about and resistant to women's legal rights. If there is a University, there are some women students in the Law or *Shari'a* Faculties, and women are somewhat active in the legal sector as lawyers or NGO workers, albeit fairly secretly.

This category currently includes six (6) provinces: Bhagdis, Kandahar, Kunar, Logar, Nimroz, and Paktia

Category 4 Provinces

Category Four Provinces are typically the most conservative and insecure in Afghanistan. The populace is highly resistant to recognizing women's rights and implementing gender justice programming is considered high-risk and unwise.

This category currently includes eight (8) provinces: Ghazni, Helmand, Khost, Paktika, Nuristan, Uruzgan, Wardak, and Zabul

2. WOMEN'S PARTICIPATION AS JUDGES

2.1 OVERVIEW OF PRESENT PARTICIPATION

Currently in Afghanistan, there are 171 women judges, nine percent of the total number of judges across the country. Of these, 149 work in the Primary Courts and 22 in the Appellate Courts. There are no female members of Afghanistan's SC, appointments to which are made by the President and approved by the *Wolesi Jirga*, the lower house of the legislature.

Of sitting women judges, 60 percent were initially assigned to provinces outside of Kabul. Currently, however, only 19 women judges are serving in the provinces, meaning that that effectively only 1.4 percent of judges outside of Kabul are women. Of these only five serve outside of a provincial capital – two in Farah, and one each in Ghazni, Helmand, and Nimroz.

2.2 PROGRESS TOWARD GOALS FOR WOMEN'S PARTICIPATION

The ANDS, Gender Equity Strategy 2007/8 – 2012/13 sets the national goal of 30 percent women in elected and appointed bodies at all levels of governance by 2020, stipulating a 2 percent increase each year to meet this goal. At nine percent nationally, the Court is currently 3.7 percent behind the 12.7 percent anticipated national target for women judges in 2012.

Figure 4: Progress Toward Goals for Women's Participation as Judges

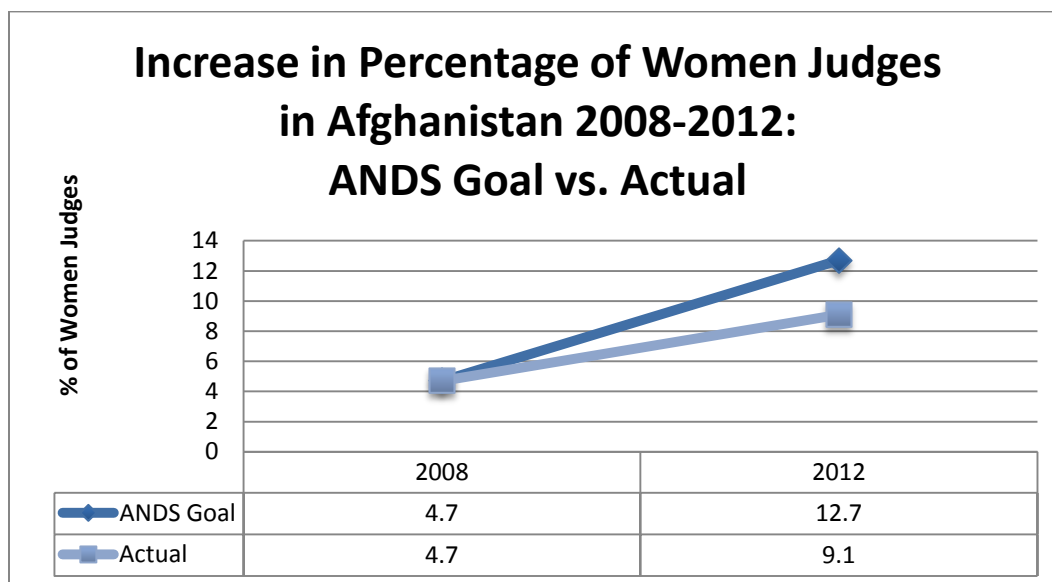


Figure 5: Placement of Women Judges⁶

	Men	Women	% Women	Women on Temporary Assignment in Kabul
Badakhshan	73	0	0.00%	0
Badghis	23	4	14.81%	4
Baghlan	52	2	3.70%	0
Balkh	87	11	11.22%	1
Bamyan	42	0	0.00%	0
Daikondi	20	2	9.09%	2
Farah	23	11	32.35%	11
Faryab	27	3	10.00%	3
Ghazni	45	2	4.26%	2
Ghor	33	0	0.00%	0
Helmand	34	4	10.53%	4
Herat	107	5	4.46%	0
Jowzjan	33	0	0.00%	0
Kabul	227	65	22.26%	0
Kandahar	38	4	9.52%	4
Kapisa	37	0	0.00%	0
Khost	28	1	3.45%	1
Kunar	37	0	0.00%	0
Kunduz	72	0	0.00%	0
Laghman	31	0	0.00%	0
Logar	35	0	0.00%	0
Nangarhar	130	0	0.00%	0
Nimroz	11	3	21.43%	3
Nuristan	20	2	9.09%	2
Paktia	41	3	6.82%	3
Paktika	19	17	47.22%	17
Panjsher	37	0	0.00%	0
Parwan	48	0	0.00%	0
Samangan	29	0	0.00%	0
Sar-i-Pul	26	0	0.00%	0
Takhar	61	3	4.69%	1
Uruzgan	18	2	10.00%	2
Wardak	40	0	0.00%	0
Zabul	12	12	50.00%	12
Supreme Court Judicial Staff	103	15	12.71%	0
TOTAL	1699	171	9.14%	72

⁶Afghanistan Supreme Court Human Resource Database, September 10, 2012.

Figure 6: Original Placement of Afghan Women Judges (# Female Judges / # Male Judges)

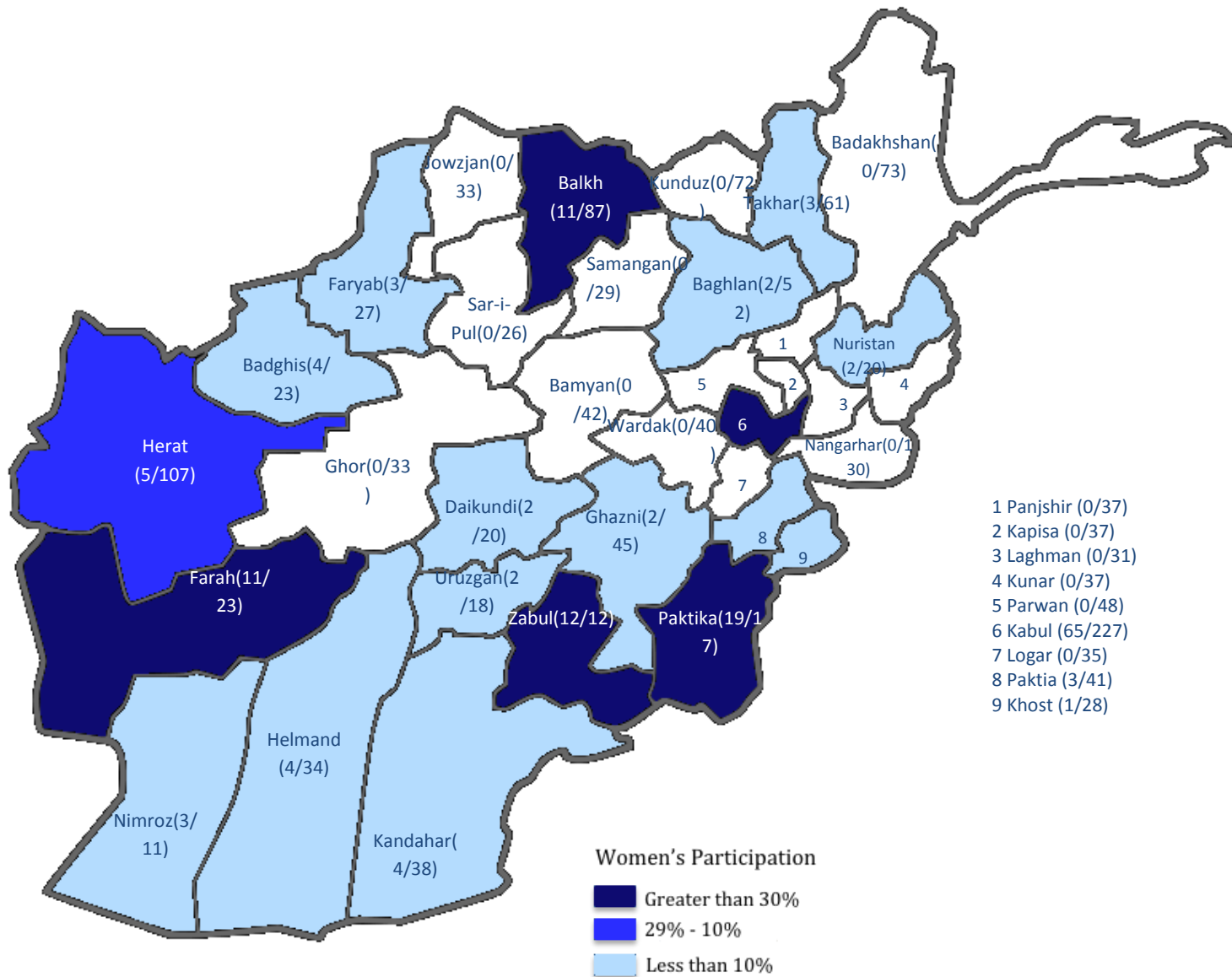
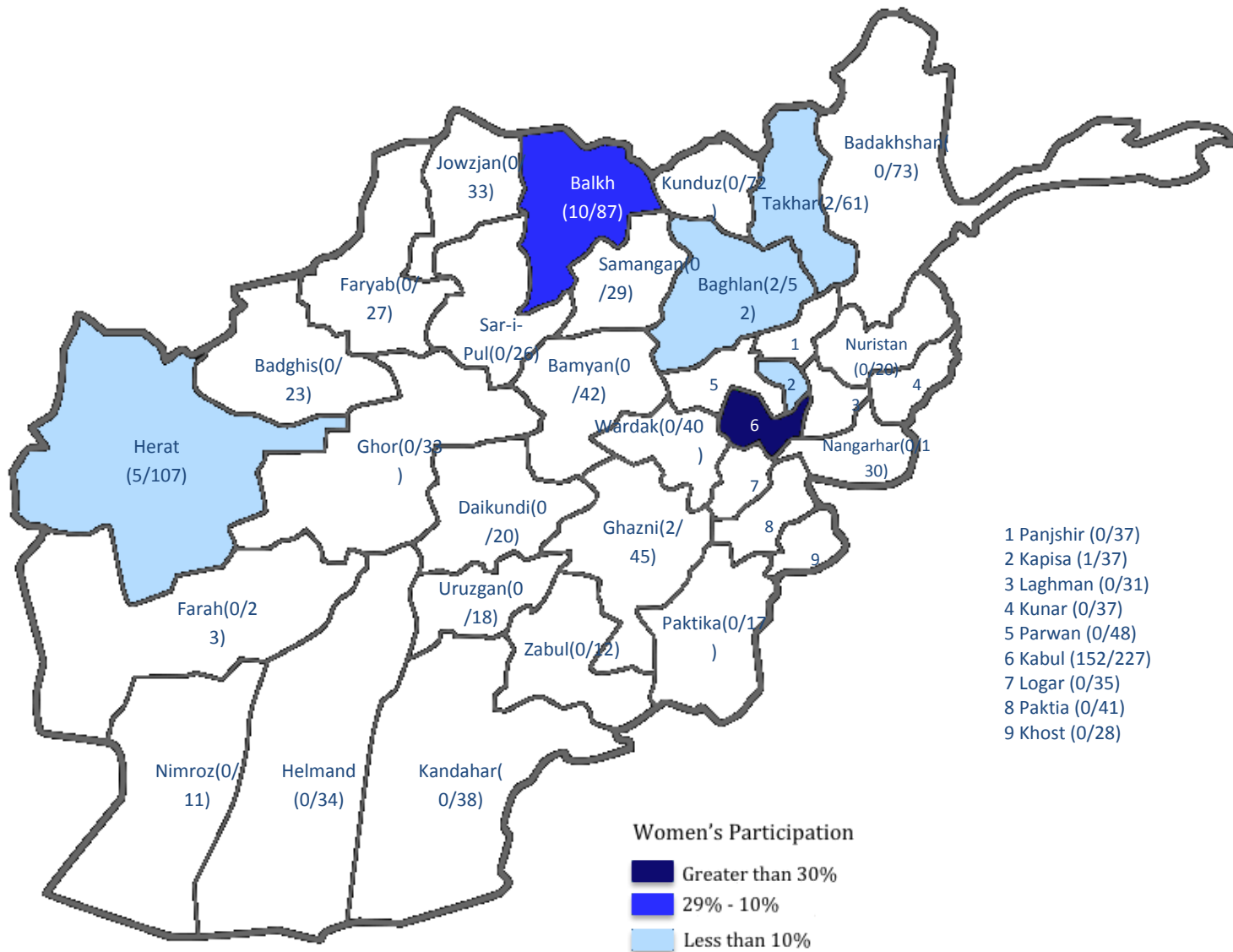


Figure 7: Current Placement of Afghan Women Judges (# Female Judges / # Male Judges)



2.3 CAUSE ANALYSIS: BARRIERS AND SUPPORT FOR WOMEN'S PARTICIPATION

RLS-Formal held a focus group with sitting judges in Herat on September 19, 2012, with *Stage* students on October 13, 2012, meanwhile continuously analyzing existing data on women judges in Afghanistan. Outside of these mentioned focus groups, further contact with female judges was barred by the SC, with a representative stating that the Court was not interested in information being collected on women judges.

Participants of the focus groups discussed experiences as women judges and students, barriers to their participation, and motives behind becoming judges. The top barrier cited by women to becoming judges is the lack of a regional *Stage* program, and the top barrier for success as a judge is the lack of resources, including computers, internet, and research materials. Women's technical knowledge is high in the legal sector as evidenced by their test scores and class placement; however, Dr. Abdullah Atayee, the Director of the *Stage* program indicated that women's practical experience continues to lag behind male counterparts.

Figure 8: Performance Intervention Map for Women Judges: Summary of Findings

What do women need in order to become and succeed as judges in Afghanistan?		
Physical Resources <ul style="list-style-type: none"> Secure and culturally appropriate dormitory for women in <i>Stage</i> Computers and internet 	Structure/Process <ul style="list-style-type: none"> Regional <i>Stage</i> programs Gender policy for Supreme Court 	Information <ul style="list-style-type: none"> More information on the <i>Stage</i> program, including application process
Capacity <ul style="list-style-type: none"> On-the-job training Support for more women studying for the <i>Stage</i> entrance exam, such as study aids Study tours 	Incentives <ul style="list-style-type: none"> Prestige Higher wages 	Wellness <ul style="list-style-type: none"> Incorporate sexual harassment training into anti-corruption programs Improved security

Physical Resources

The lack of physical resources was the top barrier to success in the workplace cited by women judges in Herat. They specifically spoke of the length of time it takes to do work by hand and requested computers and internet be introduced to the provincial and district courts.

Structure / Process

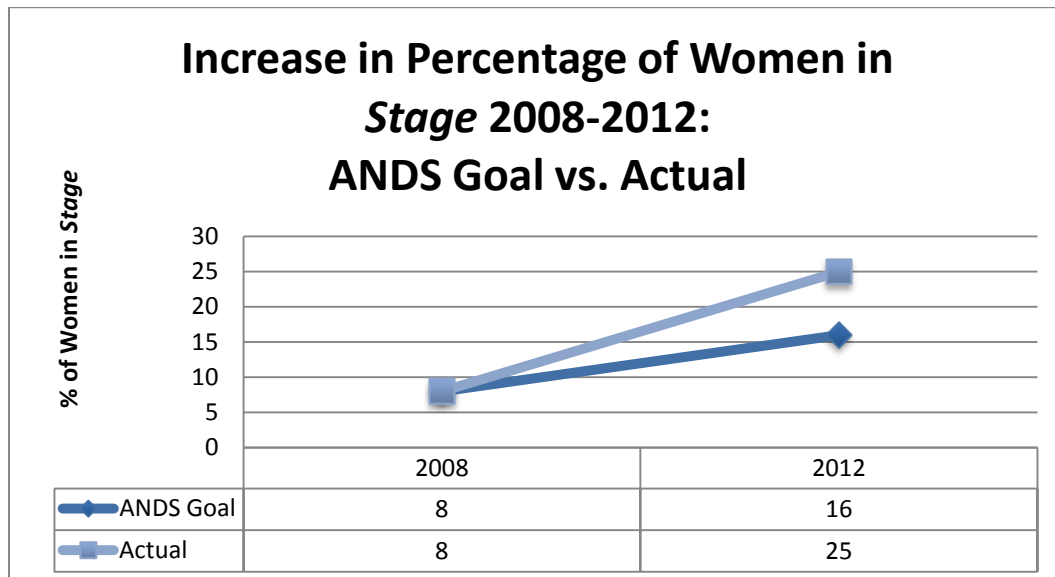
Becoming a Judge: The Judicial *Stage* Program

Since 2002, the sole path to becoming a judge in Afghanistan has been the judicial *Stage*, a two-year training program in judicial decision-making. The program is located in Kabul, meaning that to undertake the program women must live away from their families. This is the

greatest barrier cited by women judges, law students, court administrators, and *Stage* participants to women's ability and willingness to become judges, given cultural biases against women living away from their family.

To qualify for the *Stage*, an individual must have a bachelor's degree in law or *Shari'a* and pass a 100 question, multiple-choice entrance exam. Women have comprised a respectable percentage of *Stage* graduating classes over the past several years, passing the entrance exam at higher rates than their male counterparts. The current 2012 class of *Stage* has 25 percent women participants, and the 2011 and 2010 classes graduated 17 and 19 percent of women participants, respectively. These numbers are well above the annual targets for women's matriculation, making the *Stage* program the most likely sector examined in this assessment to achieve the goal of 30 percent women's participation by 2020.

Figure 9: Progress Toward Goals for Women's Participation as *Stage* Students⁷



Women's participation, however, is tempered by the fact that the female participants come from the provinces closest to Kabul. Cultural norms make it difficult for women to travel or live away from their families, and in the past three *Stage* classes there have been no women from the West, East, or South of Afghanistan in the program.⁸ Most notably, in the most recent class there were no women from Herat or Balkh, which have the second and third largest percentages of women Law and *Shari'a* students in the country, at 25 and 23 percent of the faculty's student body, respectively. This disparity suggests that certain factors prevent the students from pursuing careers as judges. The data collected by RLS-Formal at its focus groups indicates that the distance of the provinces from Kabul, the difficulty of leaving their families and the lack of culturally appropriate housing prevent such students from entering the *Stage*.

⁷Afghan National Development Strategy, 2008, and Supreme Court *Stage* enrollment records.

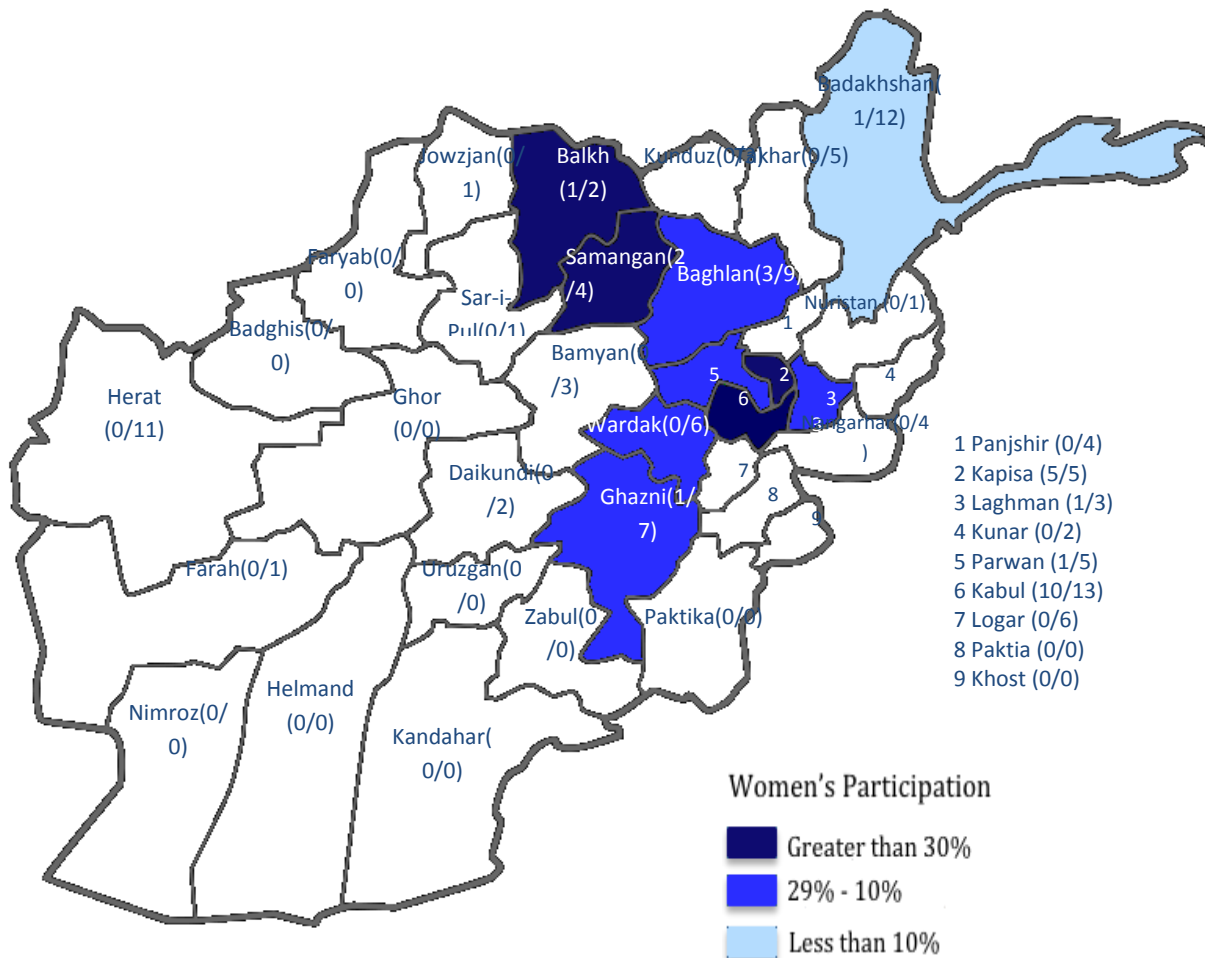
⁸Supreme Court enrollment records.

Figure 10: 27th Class of the *Stage* program (# Women / Men Originating from Province)





Figure 11: 26th Class of Stage program (# Women / Men Originating from Province)



Placement as Judges

Once students complete the *Stage* program, graduates are assigned to a primary court by a committee appointed by the Chief Justice of the SC. The graduates each select up to four provinces in which they would be willing to serve, and the Court assigns each to one of their choices.

Cultural norms and family preference typically prevent women from moving away from their families, which means that given the lack of female *Stage* students from provinces outside Kabul, there are only a limited number of postings which women could accept. Any attempt by the SC to place women in provinces that they are not from, only appears to have contributed to the disproportionate number of women judges in Kabul.

Given the difficulty of obtaining data from the SC, RLS-Formal was unable to determine of those women who were initially assigned outside of Kabul how many were from the province to which they were assigned or to what extent other factors played a role in women judges taking temporary assignments in Kabul. Nor was the project able to delineate what attempts the Court made to assign women to their place of origin. This information would be instrumental in determining whether the placement procedure is a barrier to women and how to ensure women are better able to serve outside of Kabul.

Further study should be undertaken as part of a process of evaluating and reforming placement of women judges in Afghanistan. Given the low number of women in *Stage* who are from provinces outside of Kabul, any change in the Court's placement process will require the support of regional *Stage* programs and aggressive recruitment efforts.

The Promotions Process

Women face disproportionate barriers during the promotions process. Judges in Afghanistan have two paths to promotion, both of which are highly subjective. The first is based on a regular review process held every three years by a special committee appointed by the head of the SC. The second is through the personal recommendation of the provincial Chief Justice or the Chief Justice of the Supreme Court. In both cases, judges frequently cite the number and quality of the academic papers they publish as an additional factor as grounds for promotion.

In previous RLS-Formal activities, women judges reported that they are subject to far higher standards for promotions and pay raises than their male counterparts; however, the lack of cooperation from the Court to investigate the issue further, makes it very difficult to establish the extent or nature of the problem, or to make informed recommendations for improvement.

General Policies and Procedures for Women's Participation

Throughout the career lifecycle, women's participation likely suffers from the lack of formalized policies and strategies for their inclusion. The SC has yet to develop policies and standards for equality in the workplace, including a gender equality policy or sexual harassment policy.

Information

Reference Materials

Women judges who participated in RLS-Formal focus group in Herat cited lack of relevant reference materials as a significant barrier to improving their job performance. Male judges frequently cite this barrier as well. Although the availability of materials has increased markedly over the past several years, measures will need to continue to address the relative lack of legal texts in Dari and Pashto and printed judicial decisions that continue to hinder the development of the capacity of the judicial sector in Afghanistan.

Stage Application Materials

Women lack appropriate information about the *Stage* program, including specific information and materials on the application process. A survey conducted by RLS-Formal in 2011 revealed that only 15.2 percent of female law students polled in Herat and 2.8 percent of women law students polled in Mazar-i-Sharif were familiar with the application process for the *Stage*.

The SC advertises for the *Stage* program application process through radio and television, however, distribution of information is intentionally restricted beyond these mediums by the government, citing opportunities for corruption and the lack of provincial staff available to manage the process. Applicants frequently have to make several trips to Kabul to complete the applications process. While RLS-Formal has been successful at improving the number of women who were informed of the process in targeted areas, access to information should be expanded. The introduction of an online application system, as one option for applying to *Stage*, is one possibility that should be considered.

Capacity

While only 12.4 percent of applicants for the *Stage* program were women, of those that sat the 2011 entrance exam 18.1 percent passed, compared to 11.2 percent of men. The previous year women passed at a rate of 18.6 percent, compared to men who passed at a rate of 14.5 percent. Further, for the past two years, women have consistently ranked at the top of the class by holding nine of the top ten slots in each graduating class. This seemingly suggests women entering the judiciary a higher academic vigor and capacity than their male counterparts. This pattern of females with higher academic performance than their male counterparts is typical of Afghan women in prominent positions. Sitting women provincial councilors, for example, are 16 percent⁹ more likely to have a university degree than their male counterparts.

Where women tend to fall behind their male classmates is when the focus turns to practical experience. Women typically have few opportunities to participate in activities outside of their formal education because cultural norms prevent them from the type of social interaction that underlies practical training activities, such as mock trials, visits to courthouses, and access to legal clinics, and therefore tend to have far less practical experience and far lower observed confidence.

⁹Powell, J. *Afghan Women in Sub National Government*. Fredrich Ebert Stiftung, 2010. The women elected to PC seats in the August 2009 elections are largely educated--91 percent have a high school education and 35 percent have a university diploma. Ninety-five percent are literate. These rates are far above those of male councilors, of whom 62 percent report high school education and 19 percent report university or graduate degrees, with literacy rates at 89 percent.

“Women have a very good position in Stage... they learn far more readily than the men; however, their practical work is weaker.”

--Dr. Abdullah Atayee, Director of the *Stage* Program

Incentives

Women judges and *Stage* students overwhelmingly named the prestige of the position as their number one motivation for wanting to become judges, however, most women also emphasized the need for higher salaries to compete with international NGOs. The government should consider ways in which this incentive might be better leveraged in the placement of women judges outside of Kabul.

Wellness

A lack of security is the top barrier to wellness in the workplace cited by focus group participants. Women judges in Herat reported receiving threatening phone calls and night letters¹⁰. Of the women judges on temporary deployment in Kabul, it is likely that insecurity motivated many of the moves to Kabul.

2.4 REVIEW OF COMPONENT ONE: CAPACITY BUILDING OF THE JUDICIARY

Since 2010, RLS-Formal has provided technical support to the SC of Afghanistan to enhance practical judicial skills and improve the national training system for prospective and sitting provincial and district level judges. Within this component, RLS-Formal has provided awareness raising of the *Stage* program for female law students, continuing legal education for women judges, women's rights training for all judges, and helped establish the AWJA in 2012 including development of a mission statement and organizational structure, as well as support for conducting its inaugural conference.

Targeting women for awareness-raising for the *Stage* program was both successful and appropriate and the establishment of the AWJA is expected to give women judges a forum for capacity building and networking. The inclusion of women in co-educational trainings is low, largely due to the lack of women serving in most provinces, but nevertheless could be improved upon, particularly in Kabul.

Awareness-Raising for the *Stage* Program

In 2011, RLS-Formal held a series of forums for women law and *Shari'a* students to increase awareness of the purpose and requirements of the *Stage* program. Six forums were held for a total of 366 women law and *Shari'a* students and judges - approximately 20 percent of law and *Shari'a* students nationally - in Kabul, Herat, Balkh, Kapisa, Nangarhar, and Takhar.

¹⁰ Night letters are anonymous threat letters delivered secretly at night to a person's home. They are frequently used by insurgent groups in Afghanistan as a means of intimidation.

Continuing Legal Education

Since 2010, RLS-Formal conducted continuing legal education trainings for judges from all 34 provinces. The trainings were held in nine provinces throughout Afghanistan including Balkh, Gardez, Helmand, Herat, Kabul, Kandahar, Khost, Kunduz, and Nangarhar. Of the 659 judges who attended, 34, or five percent, were women, with 22 of the 34 women attending trainings in Kabul.

Gender Awareness Training for Sitting Judges

Since 2010, RLS-Formal conducted gender awareness training as a component of select continuing legal education classes in Herat, Kabul, Kunduz, and Nangarhar. In total 209 men and 19 women attended training on women's rights in commercial, civil, and criminal law.

Afghan Women's Judges Association Established

In 2012, RLS-Formal provided support to the Supreme Court to establish the Afghan Women's Judges Association (AWJA), including development of a mission statement and organizational structure, and organization of an inaugural conference. AWJA is unique in Afghanistan as a prominent group of experienced women judges, and the legal professional association has the potential to provide authority and leadership in the process of integrating gender in the judiciary.

2.3 ANALYSIS

Overall, RLS-Formal has provided useful assistance that has supported the 4.3 percent increase in the number of female judges since 2006. In particular, the informational sessions held for women Law and *Shari'a* students resulted in greater awareness of the *Stage* program, and the creation of the AWJA has helped to create better networking opportunities for women Judges.

Despite the progress that has been made, however, the number of women judges remains far below the 12 percent ANDS target for 2012, and, more concerning, 89 percent of the women judges that are currently practicing in Afghanistan are located in Kabul. Only 1.4 percent of those judges outside the capital are women, and female judges are present in only four provinces— Baghlan, Balkh, Herat, and Takhar – all in the North and West of the country. Moving forward, greater attention should be placed on women's ability to serve as Judges in the provinces, so that more women members of the public can have their cases heard by female Judges.

Women's enrollment in the *Stage* program has exceeded annual ANDS targets for the past three years, achieving 25 percent in 2012. However, as the only *Stage* is in Kabul, and Afghan women have expressed unwillingness to move from distant provinces – even more liberal provinces, such as Herat - to Kabul, due to strict cultural barriers preventing women from living away from their families. As a result, only women from the immediate area around the capital have been successfully recruited into the program.

In the 15-month extension period, primary focus should be placed on programs that address the inclusion of more women from the provinces in the *Stage* program to increase the number of women

judges in the provinces in the long-term. Given the present low-capacity of the *Stage* program, it is premature to anticipate an immediate introduction of regional *Stage* centers, however, the Program may consider working with the Court to develop a Capacity Development Plan that plans for their introduction within three to five years.

2.4 RECOMMENDATIONS MOVING FORWARD

The following initiatives are recommended for implementation by RLS-Formal and USAID based on the findings above.

- Depending on the Supreme Court's cooperation, RLS-Formal should conduct an in-depth **review of the placement of women judges**, identifying possible methods for increasing the number of women outside of Kabul. USAID's direct assistance will likely be necessary to achieve this. RLS-Formal should continue **informational sessions for women Law and Shari'a students on the Stage program** and expand the forums to include assistance with the application process and the development and dissemination of study materials for the entrance exam.
- RLS-Formal should consider providing support to the SC to develop an **online application and registration process for the Stage program** to allow female and male students to more easily apply from Kabul. This will depend on receiving the full support of the Court for the initiative; however, and USAID's direct involvement may be necessary to achieve this.
- RLS-Formal and USAID should continue to find a way to provide support to the SC for a **permanent and secure women-only** dormitory for the *Stage* program in Kabul, and any future regional locations.
- RLS-Formal should consider establishing and expanding opportunities for female students to gain practical judicial experience through **internship programs, legal clinics, and additional moot court competitions** at each of the Faculties of Law and *Shari'a*. The addition of such programs may also contribute to women's ability to serve outside of Kabul through the increased interest of women and increased acceptance of women by the provincial courts.
- To increase the rates at which women's rights are upheld in Afghan courts, RLS-Formal should provide **training to judges on women's rights** under Afghan law, including the basics of gender equity, the Law on the Elimination of Violence Against Women, Family Law, and the Inheritance Law. Given the varying levels of willingness and capacity of judges across Afghanistan and strong resistance on the part of the SC, training on women's rights will likely need to be mainstreamed into existing training programs, rather than be presented as a stand-alone training. In those provinces where acceptance and exposure is particularly low, a greater emphasis will need to be placed on the basics of women's rights and information should be presented in a way that increases interest in additional information on the topic. In select cases, such as that of female judges, more intensive training on women's legal rights may be effective.
- To expand networking opportunities for women judges, RLS-Formal should consider providing

support to build the capacity of the Afghan Women Judges Association (AWJA), if permission is received from the Court. Such support could include technical training, resources, and mentoring on organizational development, such as project management, accounting, and reporting.

Long-term Recommendations

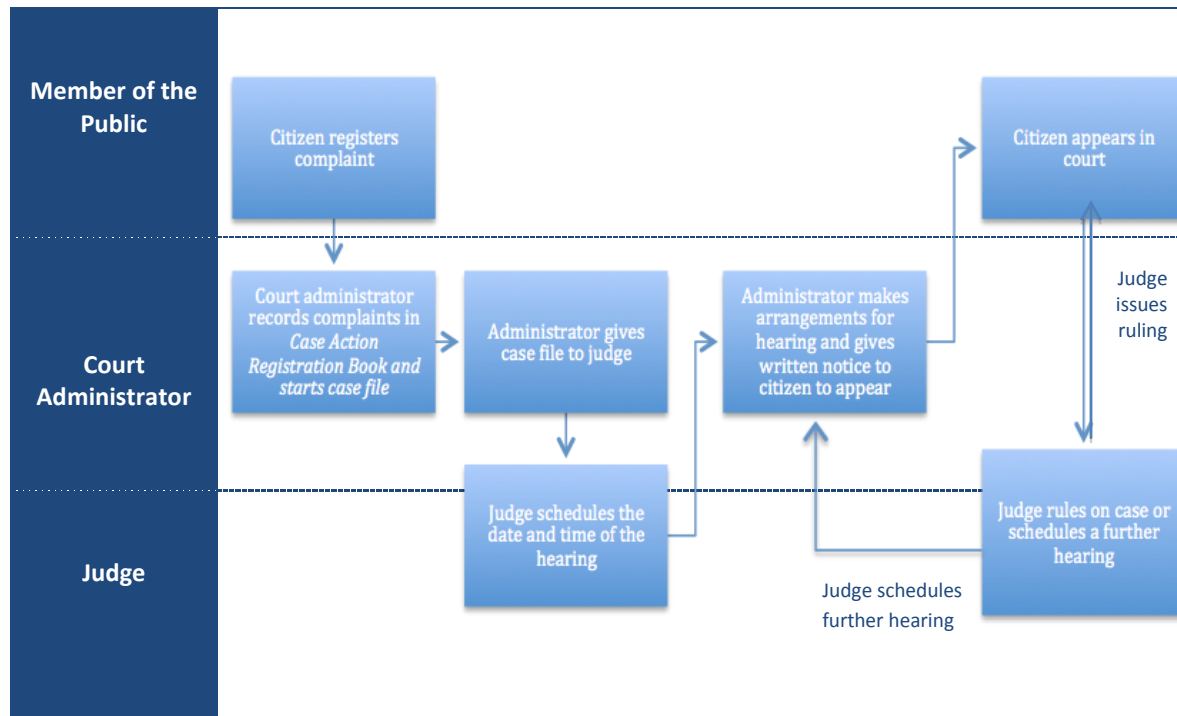
- USAID should provide support to the Court to **establish a pilot regional branch of the Stage program** once the capacity of the existing program is developed to the extent that it can be replicated.
- RLS-Formal should consider providing support to the Court to **adopt a gender strategy** with time-bound targets for women's participation. This strategy should include a related **recruitment program** that encourages exceptional female Law and *Shari'a* students to apply to the *Stage* program. Particular attention should be paid to recruiting women outside of Kabul. A recruitment program should include institutionalizing informational sessions for women as a joint MoHE – SC effort, wider availability of application materials and study aids, and assistance with the application process. Recruitment should also emphasize the prestige of being a judge in Afghanistan, in response to the high percentage of students motivated by this fact.
- USAID should consider providing future support to conduct **a review of the promotions process for judges**, paying particular attention to cases of gender discrimination. Given the sensitive nature of this topic and the lack of cooperation from the Court to date, it is unlikely that this would be achieved under the current program.
- USAID should consider providing future support for the drafting and adoption of **gender focused human resource policy** based on the Afghan Labor Law. Given the sensitive nature of this topic and the lack of cooperation from the SC to date, it is unlikely that this would be achieved under the current program.

3. WOMEN'S PARTICIPATION AS COURT ADMINISTRATORS

3.1 OVERVIEW OF PRESENT PARTICIPATION

Administrators are the public's first point of contact with the courts, and the quality of their work is largely responsible for citizen's perceptions of the court's efficacy. As shown in Figure 12 below, Administrators occupy a key position in the interface between the Courts and the public; they register cases, distribute resources, and notify members of the public of their hearings.

Figure 12: Basic Process for Public's Interface with the Court

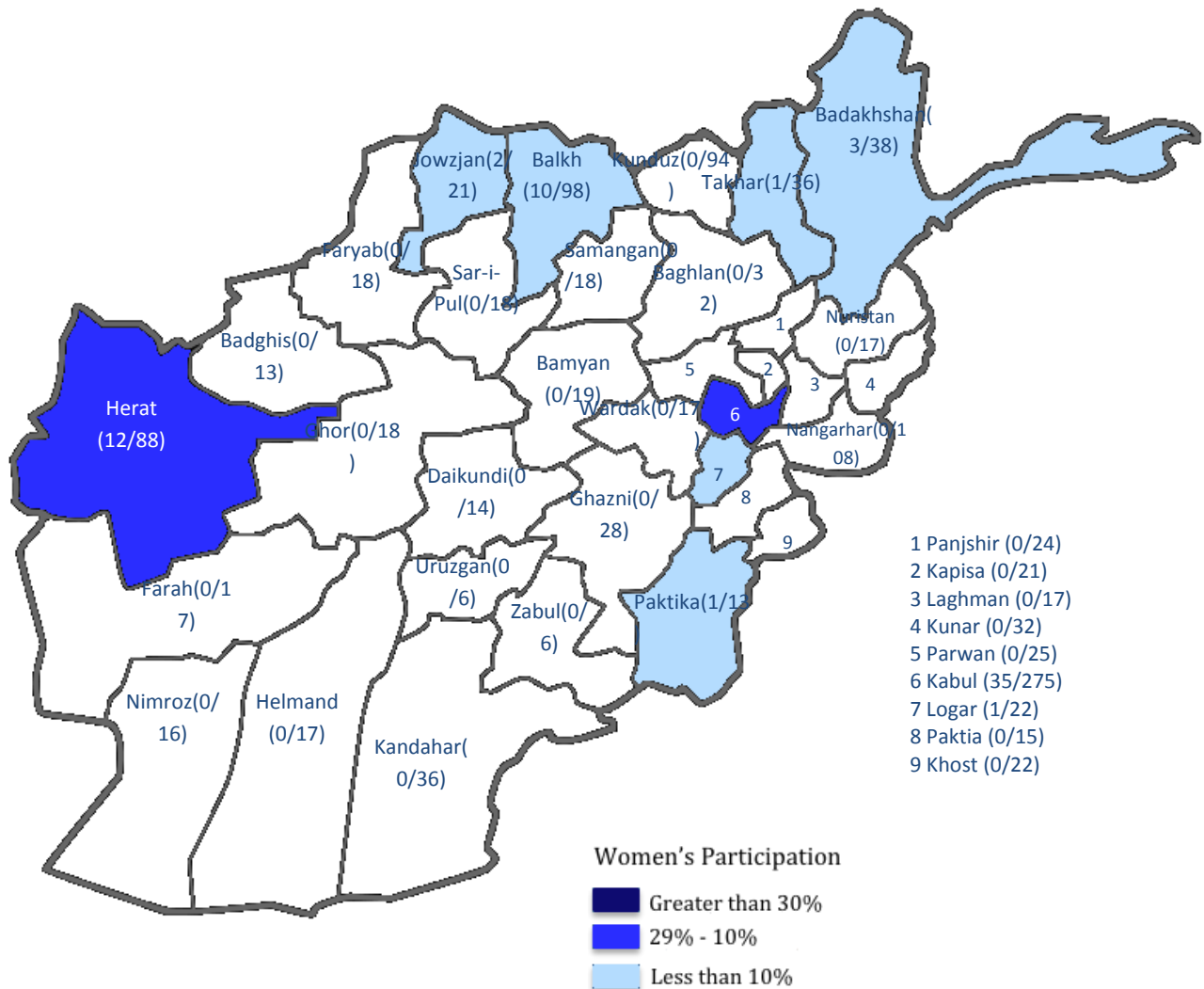


The presence of female court administrators can serve to create a more welcoming environment for women members of the public and contribute to more equitable treatment for cases brought by or involving women. Yet, of the three areas of women's institutional participation examined in this report, women's participation as court administrators is the lowest.

RLS conducted a desktop review of available data on women's participation as court administrators and women Administrators were included in focus groups in Herat, however, the SC barred further contact with female employees of the Courts, preventing the collection of additional data.

There are presently 129 women working as court administrators in Afghanistan – 42 less than the total number of women judges. Of the eight provinces – Badakshan, Balkh, Herat, Jawzjan, Kabul, Logar, Paktika, and Takhar - where women administrators are working in the courts, none meet the 30 percent threshold.

Figure13: Distribution of Women Court Administrators in Afghanistan¹¹



¹¹ Afghanistan Supreme Court Human Resource Database. September 10, 2012.

Figure 14: Women Court Administrators in Afghanistan¹²

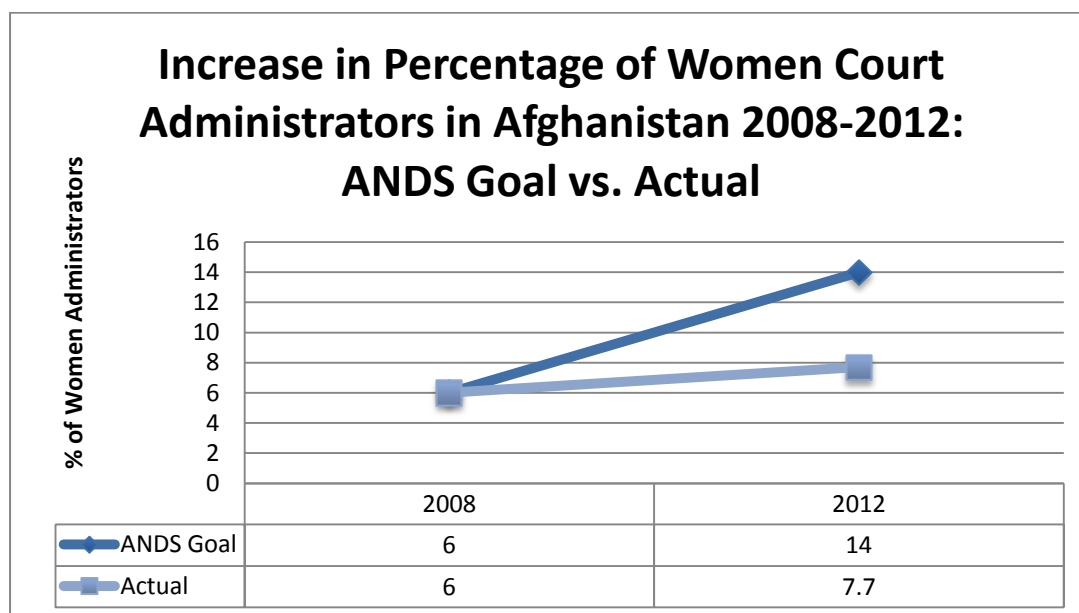
Court Administrators			
	Men	Women	% Women
Badakhshan	38	3	7.32%
Badghis	13	0	0.00%
Baghlan	32	0	0.00%
Balkh	98	10	9.26%
Bamyan	19	0	0.00%
Daikondi	14	0	0.00%
Farah	17	0	0.00%
Faryab	18	0	0.00%
Ghazni	28	0	0.00%
Ghor	18	0	0.00%
Helmand	17	0	0.00%
Herat	88	12	12.00%
Jowzjan	21	2	8.70%
Kabul	275	35	11.29%
Kandahar	36	0	0.00%
Kapisa	21	0	0.00%
Khost	22	0	0.00%
Kunar	32	0	0.00%
Kunduz	94	0	0.00%
Laghman	17	0	0.00%
Logar	22	1	4.35%
Nangarhar	108	0	0.00%
Nimroz	16	0	0.00%
Nuristan	17	0	0.00%
Paktia	15	0	0.00%
Paktika	13	1	7.14%
Panjsher	24	0	0.00%
Parwan	25	0	0.00%
Samangan	18	0	0.00%
Sar-i-Pul	18	0	0.00%
Takhar	36	1	2.70%
Uruzgan	6	0	0.00%
Wardak	17	0	0.00%
Zabul	6	0	0.00%
Supreme Court	287	64	18.23%
TOTAL	1546	129	7.70%

¹²Afghanistan Supreme Court Human Resource Database. September 10, 2012.

3.2 PROGRESS TOWARD GOALS FOR WOMEN'S PARTICIPATION

The ANDS, Gender Equity Strategy 2007/8 – 2012/13 sets the national goal of 30 percent women in elected and appointed bodies at all levels of governance by 2020, stipulating a 2 percent increase each year to meet this goal. The Supreme Court is currently 6.3 percent behind the anticipated target for women Court Administrators in 2012, and with no specific recruitment program or affirmative action policy in place to specifically address the lack of women, seems unlikely to gain traction against this goal moving forward.

Figure 15: Progress Toward Goals for Women's Participation as Court Administrators



3.3 CAUSE ANALYSIS BARRIERS AND SUPPORT FOR WOMEN'S PARTICIPATION

Women's participation as court administrators has fallen significantly behind gains made by women in many other areas of the justice sector. Women administrators cite the lack of physical resources, such as computers and internet as the primary impediment to their job performance, however, the failure to ensure women's inclusion in training programs should also be considered a significant concern. For example, only 2.5 percent of participants in RLS-Formal trainings for court administrators were women.

Women's ability to enter the field could likely further benefit from an affirmative action policy and a targeted recruitment effort.

**Figure 16: Performance Intervention Map for Women Court Administrators:
Summary of Findings**

What do women need in order to become and succeed as court administrators in Afghanistan?		
Physical Resources <ul style="list-style-type: none"> Computers and internet 	Structure/Process <ul style="list-style-type: none"> Affirmative Action policy Women's recruitment program 	Information <ul style="list-style-type: none"> Increased availability of information on women's rights in the workplace, such as stipulated in the Afghan Labor Law
Capacity <ul style="list-style-type: none"> Training to include at least 30 percent women, and focused on on-the-job training 	Incentives <ul style="list-style-type: none"> Prestige Higher pay 	Wellness <ul style="list-style-type: none"> Gender awareness training for all staff

Physical Resources

The lack of physical resources was the top barrier to success in the workplace cited by women court administrators in Herat. Like women judges, they specifically spoke of the length of time it takes to do work by hand and requested computers and internet be introduced to the provincial and district courts to increase the processing time for cases.

Structure / Process

The Supreme Court lacks a gender strategy, affirmative action strategy, or recruitment strategy to help increase numbers of women working as court administrators. Each would likely benefit women's participation as court administrators in Afghanistan, providing a vital link to female citizens wishing to use the formal legal sector.

Information

Information on job openings are not widely advertised where women can view them, particularly in the provinces where there is the greatest dearth of women court administrators. There is little indication that the Court is making a good faith effort to rectify this situation.

Capacity

Women court administrators receive far less training than their male counterparts. While women comprise 7.7 percent of court administrators, only 2.5 percent of participants at RLS trainings were women.

Incentives

The Supreme Court has not yet adopted the Civil Service revised pay scales, and wages remain uncompetitive with the private sector and international NGOs. Female court administrators in Herat, like their male counterparts, cite low wages as a de-motivating factor in their work performance.

Wellness

Women court administrators in Herat report facing discrimination from management and male colleagues, including teasing and condescending remarks, and receiving threats. One administrator in Herat stated that she has received multiple anonymous threatening phone calls. She reported the incidents to security but was ignored.

3.4 REVIEW OF COMPONENT TWO: CAPACITY BUILDING OF THE COURT ADMINISTRATION

Since 2010, RLS-Formal has provided support to strengthen Afghanistan's court administrative systems, including by ensuring widespread implementation of the Afghanistan Court Administration System (ACAS), proposing improvements to the ACAS, drafting a judicial inspections manual, and designing a course to train a cadre of professional court administrators.

This component has not specifically targeted women or women's issues, and, largely owing to the low numbers of women court administrators, only 20, or 2.5 percent, of the court administrators trained were women.

3.4 ANALYSIS

Women's participation as court administrators is the lowest of the three institutional sectors examined in this report, and as a result their inclusion in RLS-Formal activities was correspondingly low. Examining women's participation in this area proved challenging, however, as the SC refused access to RLS-Formal to speak with women employed as court administrators and has been equally uncooperative in discussing future assistance to increase women's participation.

Given the gap between current levels and the 30 percent ANDS goal, the Program should refocus efforts in the 15-month option period to increase the number of female court administrators through targeted recruitment of women, in close cooperation with the Court. Given the Court's recent obstinacy, facilitation will likely be required from USAID.

3.5 RECOMMENDATIONS MOVING FORWARD

The following initiatives are recommended for implementation by RLS-Formal and USAID based on the findings above.

- To better track the advances and declines in the Courts' responsiveness to women, RLS-Formal should encourage the SC to track the rates at which the courts uphold women's rights once the new computerized ACAS is adopted. Information tracked should include, but not be limited to, the number and percentage of divorces granted to women, the conviction rates of domestic violence cases, and the number and percentage of inheritance claims brought by women, and the processing times for cases brought by women versus men.

Additionally, RLS-Formal should work towards including at least **30 percent women** in all future trainings where possible.

Long-term Recommendations

- RLS-Formal should encourage and provide technical support to the Supreme Court to adopt a **gender strategy**, based on ANDS, with time-bound targets for women's participation. The strategy should include a specific **recruitment program** that includes working closely with provincial human resource offices to facilitate outreach to women and assistance to women to apply to open positions. Recruitment fairs could be held at the provincial Departments of Women's Affairs that include information on the application process, assistance with resume

writing, and training on job interviews. USAID should consider providing future support for any recruitment program developed.

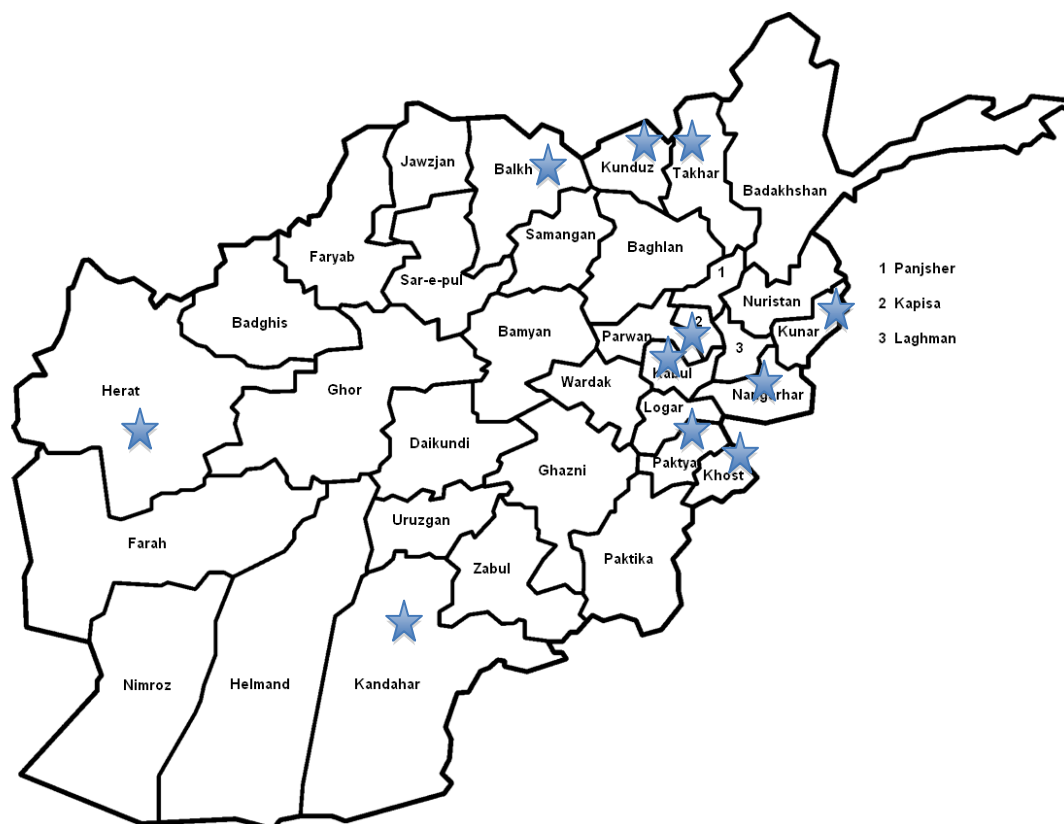
- USAID should encourage the SC to adopt **gender focused human resource policies** based on the Afghan Labor Law, including an affirmative action policy, or to adopt those policies adopted by the Afghan Civil Service. Given the sensitivity of the issue and the Court's uncooperative nature to date, it is unlikely that this could be undertaken within the timeframe of the current RLS-Formal project.
- RLS-Formal should consider providing **gender awareness training** for all court administration staff.
- USAID should consider funding the provision of additional **physical resources**, such as computers and internet, to support administrative activities.

4. WOMEN'S PARTICIPATION IN THE FACULTIES OF LAW AND *SHARI'A*

4.1 OVERVIEW OF PARTICIPATION

Women comprise a modest, but encouraging, 18.8 percent of law and *Shari'a* students and 7.1 percent of law and *Shari'a* faculty in Afghanistan. Nine of the eleven public universities with faculties of Law or *Shari'a* have female students in the law or *Shari'a* Islamic Education faculties, with Khost and Kunduz Universities being the only exceptions. Kabul University has the highest percentage of female students of law and *Shari'a* Islamic Education at 30.85 percent.

Figure 17: Map of Afghan Universities that Offer Degrees in Law or *Shari'a*



While there are more women enrolled in *Shari'a* Faculties (20.6 percent) than in Law Faculties (16.4 percent), female students are only permitted to earn degrees in Islamic Studies, for which they are required to attend women-only classes. The departments of Islamic Jurisprudence (*Fiqh*) and *Shari'a* Law (*Qanoon*) in the *Shari'a* Faculties remain closed to women.

Only four universities have female law or *Shari'a* Islamic Education faculty members, Kabul, Balkh, Herat, and Al-Biruni. Herat University has the highest percentage of female law and *Shari'a* professors at 16.28 percent. There are only two women professors of *Shari'a* in Afghanistan, one at the University of Herat and one at the University of Balkh.

Figure 18: Number and Percentage of Women Students and Professors in Law and *Shari'a*¹³

	Students			Professors		
	Male	Female	% Female	Male	Female	% Female
Balkh University	1040	313	23.13%	33	4	10.81%
Law Faculty	448	181	28.78%	14	3	17.65%
<i>Shari'a</i> Faculty	592	132	18.23%	19	1	5.00%
Kunduz University	193	0	0.00%	4	0	0.00%
Law Faculty	193	0	0.00%	4	0	0.00%

¹³ Data provided by each university.

Takhar University	487	74	13.19%	16	0	0.00%
<i>Shari'a</i> Faculty	487	74	13.19%	16	0	0.00%
Kabul University	1910	852	30.85%	72	7	8.86%
Law Faculty	1184	276	18.90%	26	7	21.21%
<i>Shari'a</i> Faculty	726	576	44.24%	46	0	0.00%
Kandahar University	275	20	6.78%	4	0	0.00%
<i>Shari'a</i> Faculty	275	20	6.78%	4	0	0.00%
Khost University	458	0	0.00%	16	0	0.00%
Law Faculty	275	0	0.00%	8	0	0.00%
<i>Shari'a</i> Faculty	183	0	0.00%	8	0	0.00%
Paktia University	149	30	16.76%	3	0	0.00%
Law Faculty	149	30	16.76%	3	0	0.00%
Al Bironi	652	57	8.04%	25	1	3.85%
Law Faculty	308	15	4.64%	12	1	7.69%
<i>Shari'a</i> Faculty	344	42	10.88%	13	0	0.00%
Nangarhar University	1280	128	9.09%	29	0	0.00%
Law Faculty	487	21	4.13%	12	0	0.00%
<i>Shari'a</i> Faculty	793	107	11.89%	17	0	0.00%
Herat University	861	284	24.80%	36	7	16.28%
Law Faculty	356	145	28.94%	7	6	46.15%
<i>Shari'a</i> Faculty	505	139	21.58%	29	1	3.33%
Kunar University	308	7	2.22%	12	0	0.00%
<i>Shari'a</i> Faculty	308	7	2.22%	12	0	0.00%
TOTAL	7613	1765	18.82%	250	19	7.06%

4.2 PROGRESS TOWARD GOALS FOR WOMEN'S PARTICIPATION

The Afghan National Justice Sector Strategy (NJSS) sets a goal of 30 percent women professors and students in the faculties of Law and *Shari'a* by 2020. The modest increase since 2008 in the enrollment of female students in these faculties has come close to meeting the annual targets.

However, the negligible increase of 1.1 percent in women professors of Law and *Shari'a* means that these faculties are unlikely to meet the 30 percent goal by 2020. This compares unfavorably with the overall average of 15 percent female professors in Afghan universities.

Figure 19: Progress Toward Goals for Women's Participation as Law Students¹⁴

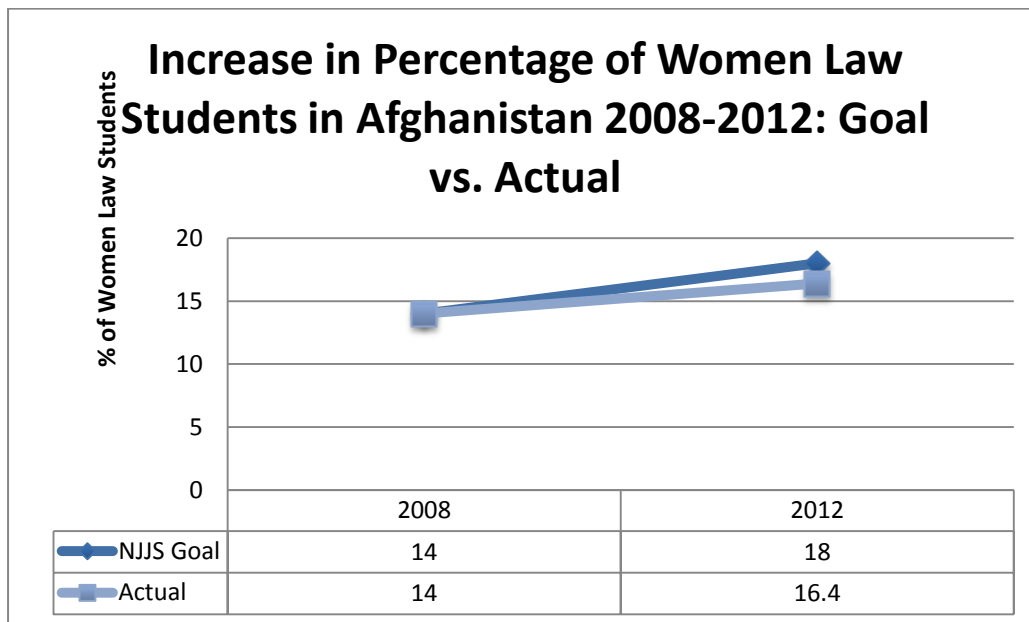
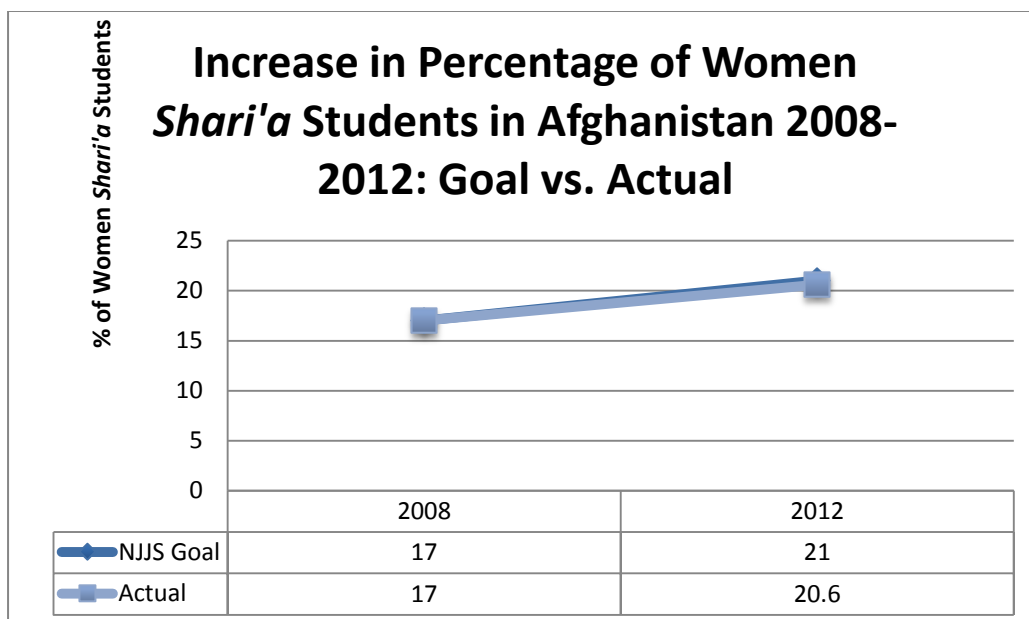


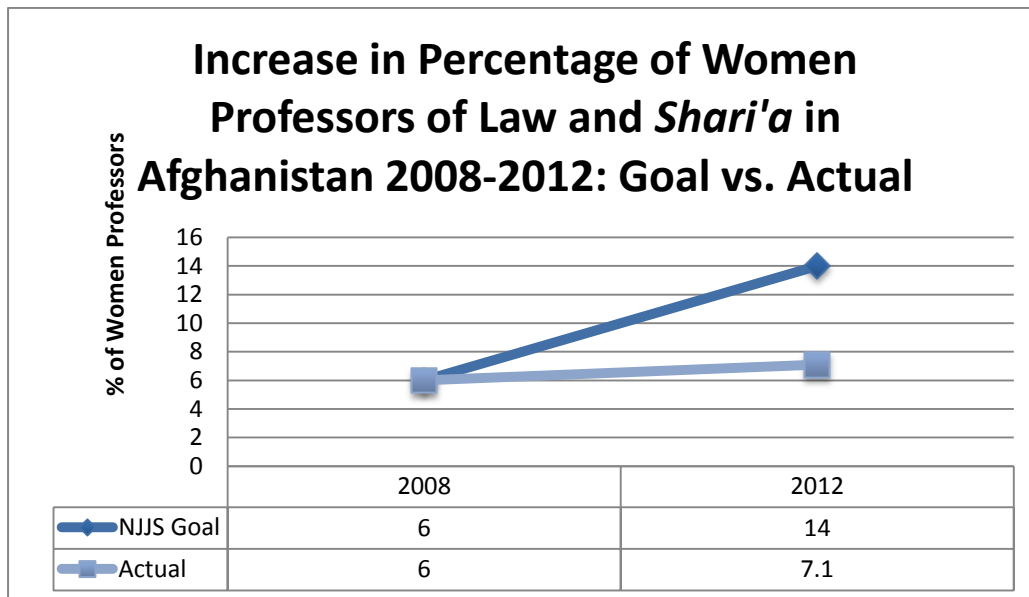
Figure 20: Progress Toward Goals for Women's Participation as *Shari'a* Students¹⁵



¹⁴ Afghan National Development Strategy, 2008, and University records.

¹⁵ *Ibid.*

Figure 21: Progress Toward Goals for Women's Participation as Law and *Shari'a* Professors¹⁶



4.3 BARRIERS AND SUPPORT FOR WOMEN'S PARTICIPATION

Women wishing to study or teach law or *Shari'a* face disproportionate access to resources, segregated classrooms, fewer opportunities to gain practical experience, a lack of acceptance from society, and sexual harassment at the universities. The lack of resources is cited by female students as the primary barrier to their performance, while female professors cite cultural discrimination, lack of family support, and the double burden on women's time of work and responsibilities at home.

Figure 22: Performance Intervention Map for Women in the Faculties of Law and *Shari'a*: Summary of Findings

What do women need in order to succeed as students or professors in the Law or <i>Shari'a</i> Faculties?		
Physical Resources <ul style="list-style-type: none"> Internet Computers Text books 	Structure/Process <ul style="list-style-type: none"> Co-ed <i>Shari'a</i> classes Accept women into <i>Shari'a</i> jurisprudence degree Ability to ask questions and discuss lessons with Professors during classes Increased support from family, including assistance with responsibilities in the home 	Information <ul style="list-style-type: none"> Text books Reference materials Improved teaching methods
Capacity <ul style="list-style-type: none"> Tutoring in Arabic language and <i>Shari'a</i> Practical legal 	Incentives <ul style="list-style-type: none"> Prestige Equal consideration of men and women in 	Wellness <ul style="list-style-type: none"> Elimination of sexual harassment by male professors

¹⁶ Ibid.

experience <ul style="list-style-type: none"> • Access to PhD courses 	promotions process	<ul style="list-style-type: none"> • Acceptance by society of women's right to study • Health clinic at University • Improved security
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Physical Resources

Women law and *Shari'a* students from the Universities of Balkh and Herat who participated in RLS-Formal's focus groups cited lack of physical resources as their biggest barrier to success as students. Thirty-six percent of female professors surveyed reported that they lacked the resources to do their jobs well.

Female students, like their male counterparts, cited computers, internet, and textbooks as the most important resources that they lacked. Often female students, however, face disproportionately less access to those resources that do exist, however, particularly library and computer facilities. Women students interviewed reported teasing by male classmates making accessing these facilities uncomfortable. Traditional norms, which make travel for women after dark particularly difficult, also mean that women effectively have restricted hours of access.

Structure / Process

Female students face a number of structural barriers to their participation, particularly in the nine *Shari'a* faculties in Afghanistan where classes are segregated by sex and women are barred from two of three departments. The women-only environment has been cited as one of the reasons for higher numbers of women enrolled in *Shari'a* faculties, as families are more accepting of the environment, however, it also diminishes the opportunities for learning. These practices are further at variance from the norm for many prestigious Islamic Universities, such as Al-Azhar University in Cairo, which accepts women into all departments and holds co-educational classes.

Female students in RLS-Formal's Herat, Balkh, and Jalalabad focus groups specifically complained about these barriers and requested universities to accept women into all courses and to hold co-educational classes. Despite the more conservative cultural norms in Eastern Afghanistan, female students at the University of Nangarhar were adamant that this should change.

Female students and professors, like their male counterparts, further noted to RLS-Formal that the typical classroom structure in Afghanistan limits learning. Most professors in Afghanistan teach solely through a lecture format. Students complained that they do not have the opportunity to ask questions or discuss topics, which limits the degree to which lessons are understood and internalized, while professors lamented their limited access to modern teaching methodologies.

Information

The lack of textbooks, reference materials, and teaching materials are cited by female professors and students, like their male counterparts, as barriers to their performance.

Capacity

Female students are frequently recognized as performing better academically than their male

classmates. As noted for students in *Stage*, where women typically fall behind their male peers is practical experience, owing partly to the barriers to women's participation in extracurricular activities and general participation in any form of civil life.

However, when asked about areas in which they felt they lacked capacity, female law students in Jalalabad, specifically noted the lack of training on the 2009 Law on Violence Against Women and women's rights more broadly in the legal curriculum. They expressed concern that they would be unprepared to protect women's rights in their chosen career after graduation, due to this oversight. Likewise, female *Shari'a* students cited a lack of women's access to studying Arabic as a barrier to women studying *Shari'a* Law and Islamic Jurisprudence.

Female professors cited their lack of access to PhD programs, which is a key qualification to becoming a professor and gaining promotions. Due to the lack of programs in Afghanistan, earning a PhD typically requires studying at a foreign university, which is more difficult for women who are less frequently allowed to live apart from their families.

Incentives

Women students overwhelmingly cited prestige as their number one motivation for choosing to study law or *Shari'a*, followed by the opportunity to help others. The majority of students indicated that they wanted to become judges, professors, or prosecutors when they graduate, as indicated below.

Figure 23: Top career goals for law and *Shari'a* students¹⁷

	University of Herat	University of Balkh	University of Jalalabad
Judges	2	5	2
University Professors	4	2	4
Prosecutors	4	2	4
Defense Attorneys	1	2	2
Government Officials	1	2	0

Professors surveyed by RLS, in contrast, indicated that they drew their greatest motivation for choosing their career from a general interest in the law, at a rate of 86 percent.

Wellness

Female students and professors face a number of safety and security problems that inhibit their attendance at university. Students at the Universities of Herat, Balkh, and Jalalabad all reported feeling uncomfortable traveling to and entering their university because of the stares and comments of men on the streets and in passing cars. Half of the professors surveyed reported receiving threats from insurgents or students.

¹⁷ RLS Focus Groups held in Herat September 19, 2012; Mazar-i-Sharif September 24, 2012; and Jalalabad October 8, 2012.

4.4 REVIEW OF COMPONENT THREE: CAPACITY BUILDING OF THE FACULTIES OF LAW AND *SHARI'A*

Since 2010 RLS-Formal has provided technical and financial support to increase the capacity of the 17 Law and *Shari'a* faculties in Afghanistan's public universities. RLS-Formal supported the development of a unified curriculum, publication of Dari and Pashto textbooks, organization of moot court competitions, and provision of capacity building trainings. Specific assistance was as follows.

Separate Computer Lab For Female Students Established at Universities

RLS-Formal built and equipped a separate, culturally appropriate computer lab at Kabul university for female students, who were not comfortable using a co-ed computer lab. RLS-Formal provides computer skills training and material support in this lab in order to enhance the resources available for students to hone their legal research and advocacy skills. Similar gender-focused initiatives are underway for Takhar and Nangarhar Universities. These practical resources aim to build student knowledge, balancing the more academic focus of legal training in Afghanistan, and will result in a cadre of well-trained and motivated legal professionals who can offer meaningful access to justice to more citizens.

CLE Training for Female Defense Lawyers

RLS-Formal collaborated with the AIBA to create a new CLE program for female defense attorneys on gender justice and provided the pilot course to 15 criminal defense attorneys in Kabul.

Inheritance Law Textbook

RLS-Formal oversaw the publication and distribution of 4,000 copies of an *Inheritance Law* textbook to 17 Law and *Shari'a* faculties.

Legal Clinics and Moot Court Competitions

RLS-Formal facilitates moot court competitions and legal clinics at several universities. Forty nine percent of participants the legal clinics have been women, and many have anecdotally conveyed to RLS-Formal staff that their participation has had a tremendous impact on their confidence in entering the legal sector after graduation.

Figure 24: Participants in Selected RLS-Formal Sponsored Legal Clinics

	University of Kabul		University of Balkh		University of Al Bironi	
	Male	Female	Male	Female	Male	Female
Thesis Writing & Legal Research	185	140	0	40	--	--
Street Law	--	--	11	10	6	7

Family Law	0	15	--	--	--	--
Criminal & Civil Law	--	--	--	--	30	15
Total	185	155	11	50	36	22

Women's participation in moot court competitions have, in contrast, been minimal and falling since the program was introduced, with three women participating at the 2011 national competition, no women in 2012, and no women currently registered for the 2013 competition.

The last woman to join a moot court team was a *Shari'a* student at the University of Balkh. In October of 2012, however, the Dean of the *Shari'a* Faculty publically shamed the woman in front of her teammates, forcing her resignation from the team.

4.3 ANALYSIS

Overall the RLS-Formal program provided positive and meaningful assistance to women students and professors. The facilitation of legal clinics, while a co-educational activity, was particularly appropriate for women students, as the primary weakness of many female students tends to be lack of practical experience. In the next 15 months, RLS-Formal should build on this success with expanded clinical programs, the establishment of an internship program, and more intensive efforts to include women in moot court competitions.

The development of the Inheritance Law textbook, was likewise, an appropriate initiative, and will help support enforcement of the law. The initiative should be repeated for the Law on the Elimination of Violence Against Women.

Little traction has been made in Afghanistan towards the NJJS goal of 30 percent women law professors, however. In the next 15 months, RLS should consider working with the Universities and the Ministry of Higher Education (MoHE) to develop a strategy and recruitment program to address this gap.

4.5 RECOMMENDATIONS MOVING FORWARD

The following initiatives are recommended for implementation by RLS-Formal and USAID based on the findings above.

- RLS-Formal should provide practical legal experience for female law and *Shari'a* students through **internship programs, an expanded legal clinic program**, and the facilitation of women's participation in moot court competitions.
- To increase the rates at which women's rights are upheld in Afghan courts, RLS-Formal should develop **training curriculum** on women's rights. Specific topics should include, gender equity, the 2009 Afghan Law on the Elimination of Violence Against Women, and the Inheritance Law.
- RLS-Formal should consider providing additional funding for **physical resources** for female

and male students and professors, including additional computer labs or the development of additional texts and teaching materials.

- RLS-Formal should consider providing training for female professors on advanced **teaching methodologies**.

Long-term Recommendations

- USAID should consider providing additional **scholarships for women** professors to foreign universities to earn LL.M.s, J.D.s, and Ph.D.s, to support women's advancement within the field.
- USAID should consider supporting future programming to provide preparatory tutoring in **Arabic language** for women *Shari'a* students.
- RLS-Formal should work with the MoHE to develop gender strategy and a **recruitment program** for women professors in the Faculties of Law and *Shari'a*. A recruitment program should include institutionalizing informational sessions for women students and practicing lawyers. Consideration should also be given to establishing a Women's Law Society to increase connections among women in the legal field and encourage practicing women lawyers to take up part-time or temporary teaching positions.

5. WOMEN'S PARTICIPATION AS MEMBERS OF THE PUBLIC

5.1 Overview of Present Participation

Legal problems, including women's rights, domestic violence, and forced marriage are cited by 36 percent of women and men across Afghanistan as the most important issues facing women. However, the courts are still perceived by very few Afghans as a place where women can go to resolve their problems.¹⁸ Of those polled in the Asia Foundation's 2011 nationwide survey, only 19 percent said there was an organization in their area that can help women resolve their problems. Of these, only six percent of rural respondents and two percent of urban respondents said courts were such organizations.

Unfortunately, no data is available on the number of cases filed by women or men on behalf of women in Afghanistan; however, planned reforms to the court's tracking system will allow this in future. Once this information is available, an analysis should be completed of delays in cases filed by women versus men or regarding women's rights issues and the rates of favorable ruling for cases brought by women versus men, and women's rights cases particularly in cases dealing with divorce and violence against women.

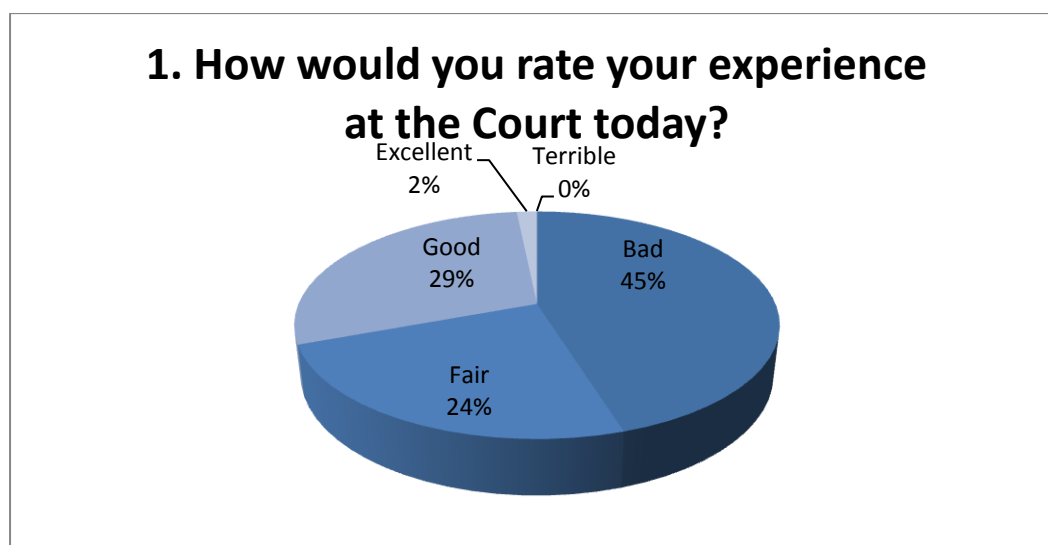
5.2 Goals for Women's Participation

The ANDS, Gender Equity Strategy 2007/8 – 2012/13 sets the national goal to “reduce gender disparity in access to justice by 50 percent by 2015 and completely by 2020.” This includes equal treatment of cases brought by men and women, equal experiences by men and women at the courthouses, and equal levels of confidence in the formal justice sector by men and women.

¹⁸Tariq et al. *Afghanistan in 2011: A Survey of the Afghan People*. The Asia Foundation, 2011, p. 153.

A lack of data makes measuring progress against this goal difficult to any reasonable degree of confidence, however select studies indicate that a significant gender disparity remains. Sixty two percent of respondents to the Asia Foundation’s 2011 survey, believed that state courts treat men and women equally, however, of the women who participated in RLS-Formal exit survey at courthouses in Kandahar, Herat, Balkh, and Jalalabad, 45 percent rated their experience at the courthouse as “bad,” and 54 percent felt that they’d had trouble getting their case brought to trial because they were a woman.

Figure 25: RLS-Formal Exit Survey Question #1



5.3 Cause Analysis: Barriers and Support for Women’s Participation

Women who participated in RLS-Formal’s exit survey at courthouses in Kandahar, Herat, Balkh, and Jalalabad, cited extreme delays in having their cases addressed by the court, corruption, and unavailable information at the courts. Interestingly, while insecurity remains a problem in Afghanistan, with women typically considered to be disproportionately impacted, only 33 percent of women surveyed felt “unsafe” or “somewhat unsafe” at the courthouse.

Figure 26: Performance Intervention Map for Women Members of the Public: A Summary of Findings

What do women need in order to use courts in Afghanistan to solve their problems?		
Physical Resources <ul style="list-style-type: none"> Independent financial resources 	Structure/Process <ul style="list-style-type: none"> Improved response rate Decreased corruption Assign courts or police responsibility for ensuring witnesses and defendants appear in court 	Information <ul style="list-style-type: none"> Make information on legal rights more widely available
Capacity <ul style="list-style-type: none"> Increased levels of education Financial independence 	Incentives <ul style="list-style-type: none"> Faster processing times 	Wellness <ul style="list-style-type: none"> Improved security

Physical Resources

One of women's primary barriers to accessing the courts is a lack of financial resources. Of the 65 women surveyed by RLS-Formal at courthouses in Balkh, Herat, Kandahar, and Jalalabad, 22 percent cited economic difficulties as an obstacle to their ability to come to the court and have their case addressed. For instance, surveyors observed women at the Herat courthouse begging security guards for taxi fare.

"I have economic problems and I cannot even pay taxi fare."

-Woman at the Herat Courthouse

Women in Afghanistan rarely have independent sources of income or control over their own finances, making it difficult to take legal action without their family's support. This makes cases of divorce, forced marriage, and domestic violence particularly difficult for women to bring to court.



RLS-Formal staff member surveys a woman visiting the Herat courthouse

Structure / Process

Women surveyed reported significant delays in having cases heard, being asked for bribes from court officials, discrimination, and difficulty securing witnesses.

Case backlogs

Delays in case management plague the Afghan legal system. Women surveyed by RLS-Formal, reported delays of between two and five years in their cases being brought to trial. All women surveyed expressed deep frustration with this process.

"It has been about four years [that I have been coming to the courthouse] and the Court still did not give me my divorce. If the court does not solve my problem, I will kill myself."

-Woman at the Kandahar Courthouse

"I am tired of coming to the Court. It will make me crazy."

-Woman at the Herat Courthouse

"It is about five years that my sister has been coming to the Court, but no one helps her."

-Woman at the Kandahar Courthouse

Observations from RLS staff suggest that court cases in Afghanistan typically take two to five years from filing to final disposition, meaning that the experiences related by women to RLS are typical of both men and women, however, the anticipated adoption of a computerized case management system will allow a detailed comparative analysis of delays of cases brought by women versus men.

Corruption

The majority of Afghans believe that corruption is a major problem in their lives and throughout

the government, with 41 percent of Afghans believing that the courts are more corrupt than other government institutions.¹⁹

Twenty two percent of women surveyed by RLS-Formal reported experiencing instances of corruption while at the courthouse, including being asked for bribes and sexual favors.

“They [the court staff] ask for bribe, but I don’t have money so they didn’t solve my problem.”

-Woman at the Kandahar Courthouse

If I don’t give a bribe to them [court staff] they do not solve my problems.”

-Woman at the Kandahar Courthouse

Responsibility for Securing Witnesses

Individuals who bring a case to court are responsible for ensuring that witnesses and the defendants attend the trial. This represents an undue burden on all those filing a case, but more so on women who have less power in society.

Several women interviewed complained bitterly about this requirement.

“I have problems with my husband but he did not come to court.”

-Woman at the Kandahar Courthouse

“I am very happy today because after one year evidence of my witnesses have been accepted by the court.”

-Woman at Herat Courthouse

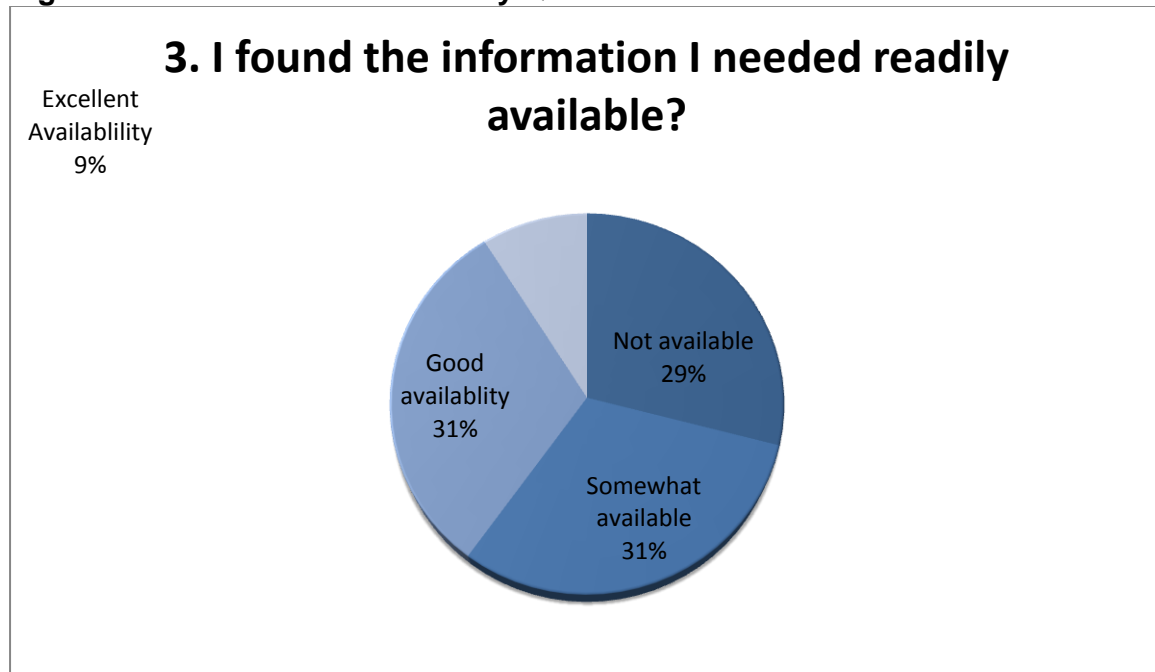
Information

Information on legal rights remains available to women in Afghanistan only to a limited degree, and that which is, is often inaccurate or unhelpful. Women throughout the country continue to have severely restricted mobility to access the information due to the view that women’s interaction with unrelated men is a source of shame to the family, limited financial resources, lack of education, and responsibilities within the home. Of those women surveyed, only 34 percent reported that they have previously received information on their legal rights, and of those only another 34 percent said they found it helpful.

Sixty percent of women reported that the information they sought once at the courts was “not available” or only “somewhat available.” Specific complaints included the courts not providing updates on the status of their case, repeatedly being told to come back at another time, repeatedly being referred to another staff member, and absent staff.

¹⁹ Tariq et al. *Afghanistan in 2011: A Survey of the Afghan People*. The Asia Foundation, 2011, p. 95, 149.

Figure 27: RLS-Formal Exit Survey Question #3



Capacity

Women in Afghanistan have less capacity than men to access formal justice institutions. Women are less educated, have lower levels of self-confidence, little independent financial control, and less mobility. They are far less able to access information about their rights, and face higher levels of discrimination when they attempt to bring a case to court.

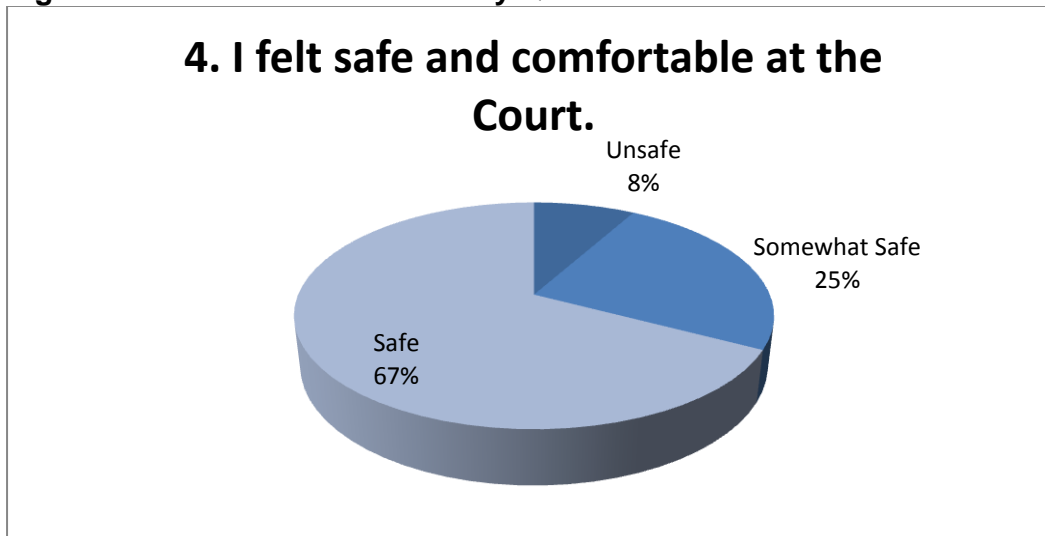
Incentives

The barriers cited above represent notable disincentives for women to bring charges against someone when they believe their rights to have been violated.

Wellness

Insecurity remains a problem in Afghanistan, disproportionately affecting women who are more likely than men to stay home after an incident has occurred. Interestingly, however, only 33 percent of women surveyed at Afghanistan's courthouse reported feeling unsafe or somewhat safe, with 67 percent felt "safe" at the courthouse. Of the four courthouses at which surveys were conducted – Balkh, Herat, Kandahar, and Jalalabad, women in Kandahar ranked security the best at 74% safe, and women in Herat the worst, at only 33% safe.

Figure 28: RLS-Formal Exit Survey Question #4



5.4 REVIEW OF COMPONENT FOUR: WOMEN'S LEGAL RIGHTS AWARENESS

Since the RLS-Formal commenced in 2010, the Program worked with Afghanistan's Ministry of Justice (MOJ) and SC and has produced booklets, posters, comic books, workbooks, and radio and television broadcasts designed to educate the public on women's inheritance rights and violence against women. Over four million copies of the written materials were distributed to primary schools and Provincial Ministry of Justice offices in all 34 provinces, while 15,000 minutes of prime time radio and television talk shows and dramas were broadcast nationally.

RLS-Formal reports positive feedback from members of the public who received the outreach materials on women's rights. A sample survey of 400 male and female students three weeks after they received RLS-Formal comic books showed that 17.5 percent retained the lessons on women's rights.

5.4 ANALYSIS

Outreach to Afghan women is limited by women's restricted mobility and access to media. Television, internet, mobile phones, and, to a lesser degree, radio, are useful mediums to reach middle and upper class Afghan women in urban centers. Available avenues to reach the majority of women in Afghanistan who are poor, illiterate, and living in rural villages, tends to be limited to face-to-face community meetings or messages conveyed via radio or by local *mullahs*.



Kandahari women practice the RLS exit survey for women at Kandahar's courthouse.

While RLS-Formal attempted a wide-reaching communications program targeting women in Afghanistan, media was limited to print publications, television, and radio and focused women's rights awareness with little or no information provided to women on how to use the formal justice through non-traditional channels such as face to face community level initiatives. Further, no monitoring activities were undertaken to verify that the intended recipients actually received a tangible benefit from the materials distributed.

Despite the Program's achievements, the Project would benefit from better integration amongst all its other program components, as well as the use of outreach methods that could better target a wider group of women, including women in rural areas. While educating women on their legal rights is one important aspect of expanding women's access to the courts, practical information on how to use the courts to secure these rights would better help women capitalize on RLS-Formal's ongoing capacity development efforts for judges and court administrators.

Outreach, in general, would benefit from coordination with civil society. While RLS-Formal is primarily an institutional strengthening program, civil society has an important role to play in exerting pressure on the Court to adopt reforms. Particularly in cases where the SC has proved unwilling to provide information to the public, as is the case with providing public education on practical aspects of the legal process, civil society groups provide a useful alternative.

Additionally, the Program should be mindful of over-educating the public on its rights if the prominent justice actors (judges, clerks, and court administrators) are not ready to accept the responsibility of providing effective service and justice delivery. Doing so would indeed be counterproductive to the aims of the Program's overall strategy of building confidence and respect for the rule of law when the rule of law will not and cannot be delivered effectively by its main actors.

Future outreach efforts will need to be more nuanced in targeting select demographics of women – women leaders, rural women, female actors in the justice sector, NGO workers etc – and should utilize non-traditional mediums to provide more practical information to women on how to access the courts.

5.5 RECOMMENDATIONS MOVING FORWARD

- The following initiatives are recommended for implementation by RLS-Formal and USAID based on the findings above. RLS-Formal should focus **outreach to women on practical aspects of using the courts**, such as producing “how-to” guidebooks or videos on filing a case, submitting information to the courts, or arranging for a witness to appear, to better inform women of how to defend their rights. Materials should be distributed to the Provincial Departments of Women's Affairs, the primary official source of information for women, in addition to the Courts, to better reach women. Outreach to women using these non-traditional mass communication efforts should focus on areas around those select Courts determined to be most capable of upholding women's legal rights and should include community meetings as well as outreach through local *mullahs*, as possible.
- To increase the efficacy of women working in the justice sector, the Program should look for opportunities to provide support by facilitating networking and knowledge exchange across provinces, including through the use of **innovative technologies**, such as a website and targeted email.

- RLS-Formal should consider providing legal rights awareness at high schools, possibly in coordination with existing civic education courses. Events held could also include **Justice Sector Career Days** at girls' high schools with female law students, police, lawyers, and Judges serving as guest speakers.

Long-term Recommendations

- RLS-Formal should assist the Supreme Court to develop and implement a mid-range (3-5 years) written **Public Awareness Strategy** similar to the MOJ's National Legal Awareness Strategy.

Annex 1: Women and the Courts Exit Survey

Good morning. My name is _____. I work with the government and I'm conducting a survey of women's experiences at the court today. The information we're collecting is completely anonymous and will be used to improve the court's services for women. Would you have 15 minutes to answer a few questions?

1. How would you rate your experience at the Court today?

Terrible Bad Fair Good Excellent

2. Were the staff courteous and helpful?

Not at all Somewhat Very much

3. I found the information I needed readily available.

Not at all Somewhat Very much

4. I felt safe and comfortable at the Court.

Not at all Somewhat Very much

5. I accomplished what I wanted to accomplish today.

Not at all Somewhat Very much

6. If the answer to any of the above was "Not at all" or "Somewhat", what was the problem?

a) Staff Courtesy/Helpfulness

b) Information Available

c) Safe and Comfortable

d) Accomplished Tasks

7. **Have you ever been to a Court before?** (Yes or No) _____
8. **Have you ever been to an event or received information on your legal rights?** (Yes or No) _____
9. **If yes, was it useful?** (Yes or No) _____
10. **Where would you go or whom would you speak with to get information on your legal rights?**

11. **Is there anything additional you would like us to know about your experience today?**

At the end of the interview be sure and thank the woman for her time.

Annex 2: RLS Survey of Women Professors of Law and *Shari'a*

Greetings. My name is _____ and I am calling from the USAID-funded Rule of Law and Stabilization program. I am doing a survey of the challenges and accomplishments of women Professors of Law and *Shari'a*. Would you have 20 minutes to answer a few questions about your experiences?

Background (optional)

	1. Name
	2. Age
	3. University
	4. Province of Origin
	5. Pay Grade
	6. What area of law do you specialize in?

Motivation

7. What was/is your primary reason for becoming a professor of law?

money	personal interest	family
helping others	prestige	other

If other, please explain:

Resources & Tools

8. Do you have the resources you need to do your job? (Yes/No)

If not, what are you missing?

Structure & Process

9. Are your tasks logical and realistic? (Yes/No) _____

If no, please explain:

10. Is your job description clear and consistent?(Yes/No) _____

If no, please explain:

11. Does the University have policies and procedures in place that help guide your work? (Yes/No)

If no, please explain:

12. Does your manager support you in accomplishing your tasks?(Yes/No) _____

If no, please explain:

13. What do you think are the major barriers to women becoming professors of law and Shari'a?

14. Do you think you, and other women, receive fair and equal consideration for promotions? Why or why not?

Capacity

15. What type of trainings would be useful to you?

Information

16. Do you have the information, such as reference materials or policy documents, you need to do your job? (Yes/No) _____

If no, what is missing:

Wellness

17. How would you rate security in your workplace? This includes security traveling to and from your office, or security threats faced as a result of your work.

very secure	secure	somewhat secure	not very secure	very insecure
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18. Do you feel respected by your co-workers? (Yes/No) _____

If no, please explain:

19. Do you feel threatened by any of the following?

co-workers	public	students
family	manager	other

If other, please explain:

Annex 3: Survey and Focus Group Participants and Methodology

Herat Women Judges and Court Administrators Focus Group

RLS-Formal invited a all five women Judges in Herat and a sample of 8 women Court Administrators to participate in the focus group. Three Judges and all Administrators attended. A facilitator led discussion of barriers each faced in the workplace. Participants also broken into small groups to prepare and give a presentation on the barriers experienced by women along each of the six ASTD performance factors. The focus group results were intended to be anecdotal in nature, providing some insight into the experiences of women, and should not be considered statistically representative.

Focus Group	Total # of Women	# of Women Attending Focus Group
Women Judges	5	3
Women Court Administrators	18	8

Women Stage Focus Group Participants

RLS-Formal invited a random sample of 12 female *Stage* students to participate in the focus group. All attended. A facilitator led discussion of barriers each faced in the program. Participants also broken into small groups to prepare and give a presentation on the barriers experienced by women students along each of the six ASTD performance factors. The focus group results were intended to be anecdotal in nature, providing some insight into the experiences of women, and should not be considered statistically representative.

Focus Group	Total # of Women	# of Women Attending Focus Group
Women in Stage	22	12

Women Law and Shari'a Student Focus Group Participants

RLS-Formal invited a random sample of 12 female Law and *Shari'a* students at each of the three Universities to participate in the focus group. All attended. A facilitator led discussion of barriers each faced at university. Participants also broken into small groups to prepare and give a presentation on the barriers experienced by women students along each of the six ASTD performance factors.

University	Total # of Women	# Women Attending Focus Group
Herat University	284	12
Balkh University	313	12
Jalalabad University	128	12

Women Professors Surveyed

RLS-Staff called all 19 female professors of Law and *Shari'ain* Afghanistan, of which 14 agreed to participate in the survey. Each were asked the questions presented in Annex 2 above.

University	Total # Women Professors	# Women Professors That Completed Survey
Kabul University	7	7
Herat University	7	3
Balkh University	4	4
Al-Biruni University	1	0

Exit Survey of Women at Courthouses

RLS-Formal staff conducted an exit survey of women at three Courthouses –Herat, Balkh, Jalalabad, while, due to cultural sensitivities and security concerns, a team of two Kandahari women conducted the exit survey in Kandahar. All surveyors attended a training on survey methodology and the survey questions prior to deployment. Each was interviewed according to the questions in Annex 1. Due to time, financial, and security restriction, the survey was not intended to be a representative sample of women in Afghanistan. It is rather, anecdotal in nature, and intended to provide basic insight into the experience of women at the selected Afghan Courthouses.

Courthouse Location	# of Women Who Completed Survey
Herat	9
Balkh	11
Jalalabad	9
Kandahar	36

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